THE POWER & PRACTICE OF Court-Leets;

With the Manner of Keeping

A Court of SURVEY for Mannors, Lands and Tenements.

ALSO,

Certain Dubious Cases in LAW Opened and Interpreted.

Published for the Common good of all, Both Landlords, Tenants and others.

By *Ph. Ag.* of Grays Inne, *Esq.*

LONDON:
Printed for *Samuel Speed*, at the Rainbow in Fleetstreet. 1666.

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These following Law-books, with Variety of others, are to be sold by **Samuel Speed,** *at the* **Rainbow** *in* **Fleet-street.**

ACtions upon the Case for Deeds, *viz.* Contracts, Assumpsits, Deceits, Nusances, Trover and Conversion, Delivery of Goods, and for other Malefeasance, and Mis-feasance; by *W. Sheppard* Esq; in *Folio.*

Declarations and Pleadings contained in the eleven parts of the Reports of Sir *Edward Cooke*, sometimes Lord chief Justice of *England*, in *Folio.*

The Antiquity, Authority, Uses and Jurisdiction of the Ancient Courts of Leet, or view of Frankepledge; with an explication of the Oath of Allegiance, and the Kings Royal Office of protection annexed; by *Robert Powel* of *New-Inne* Gent. in *Quarto.*

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An Abridgement in English of the Cases reported by Sir *Francis More*, Serjeant at Law; by *W. Hughes* of *Grayes Inne* Esq; in *Octavo*.

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The ancient and present manner of holding Parliaments in *England*, with their Priviledges; by *H. Elsynge* Esq; sometimes Clerk to the Honourable House of Commons, in *Octavo*.

The Book of Oaths, and the several forms thereof, both Ancient and Modern, in Twelves.

The Compleat Lawyer: Or, a Treatise concerning Tenures and Estates in Lands of Inheritance for Life; by Sir *Will. Noy* of *Lincolns Inne*, Attorney-General to King *Charles* the First, in *Octavo*.

The Tenants Law: a Treatise very useful for Tenants and Farmers of all kinds, and all other persons whatsoever; by *R. T.* Gent. in Twelves.

The Antiquity, Extent, and Power OF Court-Leets;

And the form of keeping them.

IF Antiquity may offer it self in plea for Authority, then good cause hath this Court to challenge *equality*, if not *preheminence* above any in the Commonwealth of *England*: for it was established long before the Conquest, and in those days held Plea of all matters in difference either for *meum* and *tuum*, the two greatest Adversaries in the world, or *pro placitis Coronæ*, which intends generally the keeping of common peace and welfare in a Nation, which is the *crown* and *dignity* thereof; and the breach thereof is aptly

called *Crimen læsæ Majestatis.*

And so duely and impartially in those days were the Liberties and Laws of this Court observed, that it is yet, and ever wil be recorded amongst our *Legenda aurea*; that in those days a child might travel safely in the Road with a bag of gold, without danger; and then the Ways were more dangerous in regard of woods; being more full of Woods, but I think not so well stored with Thieves as now; so that we have destroyed the one, and yet in too much plenty reserved the other.

But to avoid digressions, and prolixity too, we shall proceed to the formality of proceeding in a Court-Leet as now it is: and by the way, observe, that all manner of Crimes from the highest Treason, to the lowest Trespass, are here enquirable, though not punishable: of which in order you shall have a perfect description.

A Court-Leet is at most kept but twice a year, in some places but once, and in some lazie Lordships not at all, but left as a thing obsolete and useless.

The manner thereof is, first about fourteen days before the Court is to be kept

for the Bayliff to give notice thereof by vertue of a Precept to be by the Steward of the Court *pro tempore existente* to him directed; which usually runs after this form.

The Summons for a Court-Leet.

H. ſſ. A. B. *Gent. Steward of the* Mannor, *or* Hundred, *or* Leet *aforeſaid, To the Bayliff thereof, greeting: I command you; that you ſummon and warn all the tenants of the ſaid Mannor, as well reſidents as not reſidents, and all cuſtomary tenants of the Mannor aforeſaid, that they be before me at H. aforeſaid on Thurſday the 26 day of* March *next coming, to do their Suit unto the View of Frankpledge, and all things thereunto belonging*, &c. *Dated*, &c.

Then the Steward ought to enter on the Court-Roll the Style of the Court; which is usually after this manner.

The Entry of a Court-Leet, together with a Court-Baron.

H. ff. *The view of Frank-pledge, with the Court-Baron of* C. L. *Esq; Lord of the same, there held the* 20 *day of* March, *&c: By* A. B. *Steward there.*

Then make three Proclamations when you call the Court; and then a Proclamation for Essoins, and profers of Suit and Plea; which if any be, enter them in the Court-Roll, and afterwards proceed to impannel and swear the Jury for the Inquest. Swear first the Fore-man by himself, and then the rest by two or three at a time. The Oath is usually the same in substance, and not differing much in form from the Oath of the Fore-man to a grand Inquest in Assizes and Sessions, and might be omitted: but lest the young *Tyroes* might want it, I will insert the method thereof, thus:

The form of the Oath to the Fore-man of an Inquest at a Court-Leet.

You shall diligently enquire, and true-

pre-

*presentment make of all such matters as shall be given you in charge: the councill for the Lord Protector (*Commonwealth, King, or other Title of the supream Magistrate as the Law commands*) your fellows and your own, you shall well and truly keep: you shall not conceal any thing for favour, fear, promise, or affection, nor present any thing for lucre, hatred or malice; but in all things you shall present the truth, the whole truth, and nothing but the truth, according to your evidence. So help you God, and by the contents of this Book.*

The Oath of the rest may follow, in this manner.

All such Oath as A. B. *your Foreman hath taken on his part, you and every of you shall well and truly take, keep, and perform. So help you God.*

This being done, and Proclamation made for every one to keep silence and give attention, the Steward is to proceed to give the Charge, which is to consist of these particulars.

The Charge of a Court-Leet consists of two parts: one is, things there to be enquired of, but not punishable there; and the other, such offences as are there presentable, and punishable by Fine, Amerciament, *&c.*

Know then, that, to avoid needless circumstances, we shall briefly tell you, that a very proper comparison may be made between the disposure of a Commonwealth and a natural Body, as between the *Macrocosmus* and the *Microcosmus*. The Commonwealth is a Politick Body, consisting of a head and members, the one subservient to the other in his proper office, as the members of the natural body are; which maintains a mutual harmony, and a flourishing condition in the whole. But as the natural body is subject to infirmities so also is the Politick, and must be purged, the one by the Physitian, the other by the Magistrate.

As in the natural body some diseases are mortal, striking at the head thereof; some cannot be cured but by Blood-letting; others so malignantly Gangreous, as the whole member must be cut off to preserve the sound part: so in the body Politick

tick there are some mortal diseases, striking at the head, as Treasons and Petty-treasons, as shall now be declared; some deadly, wounding the members, as Murders, Manslaughters, &c. some gangrenging, as Robberies, Felonios, Burglaries, and the like, as follow.

Orderly then; to escape confusion, we shal declare what offences are here at this Court-Leet enquirable and presentable, and not here punishable, but are by the Steward to be certified to the next Assize or Sessions of the County; and then what offences are here to be presented, punished and determined.

The first of all presentable here, are High-treasons and Petty-treasons, which are diseases striking at the head, and thereby, if effected, to destroy the whole body. Presentment therfore is here to be made of all High and Petty Treasons; which, together with some other crimes incurable but by taking off the peccant member, are to be set down in writing intended; one part whereof is to remain with the Steward and the other with the Jury, and is to be delivered to the Justices of Assize, at the next general goal-delivery holden for the

County. *Stamford*; *Pl. Coron. lib.* 2. *cap.* 24, and *Lambert* Justice of Peace, *lib.* 4. *cap.* 6.

The Jury therefore is to enquire of all High-treasons; that is, if any do compass, imagine, intend, or go about to procure the death of the *L*ord Protector, and do declare the same by word, writing, or any open act; or shall go about to make war against the said Lord Protector and this Commonwealth; or shall adhere to, or hold intelligence with any of the Enemies of this Commonwealth: This is High-treason.

If any person shall counterfeit, clip, file, wash, or otherwise counterfeit or falsifie any of the Coyn or Money of this Commonwealth, or the Coyn of any other Nation which is currant in this Commonwealth; this is High-treason, and enquirable here.

If any shall counterfeit the Privy Seal, Signet, or Signe Manual of the Lord Protector, the great Seal of *England*, or any of the mean Seals of the Common Pleas, Upper Bench, or Exchequer: These are High-treasons, and to be enquired of here as Felonies.

Petty

Petty-treasons are, if any man kill his Master or Mistress, or a woman her husband: this is to be enquired of here as Felony.

In the next place follows an unnatural wicked Crime to be enquired of, and that is Murder. If any one shall out of malice prepensed or fore-thought, kill another; this is wilful Murther.

Man-slaughter is also a *species* of Murder, and here to be enquired of: which is if two persons fall out suddenly, without any prepensed malice, and fight, and the one kill the other; the Defendant in this case shall have the book for his life, but loseth his goods as in the case of Murder: so shall also the Defendant lose his goods, which kills another *se defendendo*, or in his own defence: and the same Law is, if it be *per infortunium* by mis-fortune: and this is here to be enquired of, as Bloodshed.

Rape is also here to be enquired of; that is, if any man lie with, or carnally know any woman forcibly against her will, if she exceed the age of ten years, although she consent afterwards; this is Felony by the Statute, 22 *Edw.* 4. And if

there be any ayders or assisters therin, they are also adjudged Ravishers, as well as he that committed the act.

Carnally to know any woman child under the age of ten years, though she do consent, it is Felony.

But in Rape there must be *Rem in re*, penetration, as well as *emissiô seminis*; otherwise it is no Felony. A Jury ought to be very Carefull herein, and not find a bill upon any Sluts oath.

Adultery is also to be enquired of as Felony. If any man carnally know anothers wife, and it be proved either by confession or two witnesses, it is Felony: but the confession of one party is no evidence against the other, nor a husband against his wife, nor a wife against her husband.

The *horrendum peccatum non nominandum* of man with man, or with beast, is also Felony.

Defacing of a mans Physiognomy, as cutting off his nose, putting out eyes, or cutting out of a mans tongue, is Felony.

Robbery is also here to be enquired of; that is, if any one take any thing from the person of another violently, though it be but the value of a penny; it is Felony.

If

If one be purſued by another, & the perſon in his flight throw his purſe or any other goods into a buſh or other place, and the other comes and takes it, this is Felony as wel as if he took it from his body, becauſe he parts with his goods for fear of his life.

Burning of a houſe, or barn adjoyning to a houſe, is alſo Felony, and here to be enquired of. Burglaries are alſo here enquirable; that is, if any perſon do break any houſe, Church, wall or gate, in the night-time feloniouſly, though he carry nothing out of the houſe, yet this is Felony, becauſe every mans houſe is his Caſtle wherein he ought to repoſe himſelf for his ſafety, and out of which he is not bound to flee.

If any one ſhall diſcharge a Piſtol or any Gun in at a window, this is Burglary.

Alſo, robbing of Churches or Chappels, and taking any of the ornaments or other goods out of the ſame, this is Felony.

Taking of Doves out of a Dove-houſe in the night-time feloniouſly, is Felony, and here to be enquired of.

Alſo, taking of young *Pigeons* of Goſhawks in their neſts; or taking of fiſh feloniouſly out of ponds or trunks, is felony; but if out of a River, it is but Treſpaſs.

Felonious

Felonious taking of tame Dear, Swans marked, is also Felony.

Also, if any one receive a Felon, knowing of the Felony he hath done: or if any rescue any one that is taken for Felony, it is Felony, and here to be enquired of.

Accessaries are also here to be enquired of, which are of two sorts, both in Felony and Murder. that is, an Accessary before, and an Accessary after the fact. An Accessary before. is; if any one shall procure, command, abet, or consent to another to do a Felony, though he be not present when he doth it, yet he is accessary before the fact.

Accessary after the fact, is, when one consenteth to it afterwards, either by receiving of the Felon or his goods, knowing them to be stollen.

Escapes are also here to be enquired of; which are of two sorts, voluntary and negligent. Escape voluntary is, where one taketh another for Felony, and afterwards permits him to go at large whether he will: this is Felony.

A negligent Escape is, when one is arrested for Felony, and afterwards escapes, through the negligence, though against the will of his Goaler or Keeper: and if he be

not

not freshly pursued and taken, before they lose the sight of him, the Gooler shall therefore suffer a Fine.

Petty Larceny is also here to be enquired of; which is the felonious taking of any thing under the value of 20 *d.* as Hens, Geese, Piggs; or pilfering things of small value out of windows: these things are here to be enquired of For these offences, *The house of Correction were more proper for the offendor, then the Goal and punishment used: & so likewise more satisfactorily might all Felonies be expiated by the Felons labour till restoration be made, then by death; For lex talionis, is the most just law in the world; bloud requires bloud and nothing else; it is more precious then to be spilt as to often it is.*

But while it is as it is, you are to enquire what Goods or Chattels, Lands and Tenements any Felon hath at the time of the Felony committed: for the persons so offending forfeit their goods to the Lord of the Leet, and their lands are to escheat to the Lord of whom it is holden.

And thus much concerning such matters and offences as are to be enquired of and presented a a Court-Leet, and to be certified to the Justices of Assize. In the next

place follows such things as are here to be presented and punished.

This being a Court of Record, here may be brought Informations upon all penal Statutes, or an action of Debt, at the election of the Plaintiff or Informer.

Offences of this nature in this Nation, do at this time too much abound; partly by the Ignorance of such as would prosecute them, but know not the Law, nor the encouragement; and chiefly by the countenance of those that should take cognizance of them and punish them but they are more apt to incline to take the Delinquents part then the Prosecutors. Know therefore, that amongst these Caterpilers of the Commonwealth; the Gamester is the principal Verb: by which wicked practice, how many Families and persons are utterly ruined! And yet none so much favoured and defended these.

But to prevent this destructive evill, the Law hath provided, that if any man shall keep, either in his house, yard, or backside any playing, or sufferany to play at Tables, Cards or Dice, Coits, Clash, Loggets or Nine-pins, Shove-groat, otherwise called Slide-thrift, or shall keep any Bowling-

green

green or alley, and shall suffer any person to play therat, or at any other unlawfull game, either now invented, or to be invented; every such person and persons shal forfeit 40 *s.* a day for every day wherein he kept such gameing as aforesaid: And all persons that shall play at any such games, forfeit every one the sum of 6 *s.* 8 *d* for every day that they shall play at any such games as aforesaid: one moyty of all such Forfeitures shall go to the use of the Lord Protector, the other moyety to any person that will sue for the same (*non constat what he is worth per annum, as some pretend*) in any Court or Courts of Record, either by action of Debt, Bill of Indictment, Plaint, Suit, or Information; wherein no wager of Law, Essoyn or other protection is to be allowed the Defendant. Therefore in this Court, an Information, action of debt, or Plant, lies against gaming-houses, and players therat, if any such there be within the Jurisdiction of the Leet (*as there are few places free from them.*) And the Jury is also to inquire of these offences, & present them.

In the next place, (and indeed, he ought to be a the upper end of the board) for he's the ringleader of all wickedness) comes

Mr.

Mr. *Ale-house-keeper*, or Mr. *Victualer*, as he calls himself: This is one that is seldom guilty of one fault alone, yet he's so elevated with the vapours of his Ale, that he'll bid defiance to the law, and them that prosecute it: and many times the Constable, or him that is sworn to present his Abuses, dares not, because out of the flushes of his easie gains, he lends him money.

But the Jury, at every Leet and other Inquest is sworn to enquire and present, if any one sell Beer or Ale without license. It will not serve their turns, to pretend they are free Cooks, or free Inholders: for the statute excuses none. The punishment for an unlicensed Alehouse-keeper is at the discretion of the Judge or Justice, either by the the Statute of 5 *Ed. 6.* wherein the penalty is 20*s.* to the use of the poor (deducting a third part to the Informer, if it be by information) of the parish where the offence is committed; or in default of parment thereof, the Ale Merchant is to be publickly whipt. Another penalty by the Statute of 3 *Car.* is three days Imprisonment without Bayl or Mainprize, and afterwards until he shall put in sufficient security not to Victual any more without License.

Also

Also, if any Alehouse-keeper, licensed or unlicensed, shall sell Beer or Ale in unsealed Measures, as Cans, stone-Juggs, black Pots or the like, or in any other unsealed Measures, or shall sell less then a full Ale-quart of the best Ale or Beer for a peny, or take above a peny for a full sealed quart; he forfeits for every such offence 10 s. one third part thereof to the prosecutor, and two parts to the poor of the Parish.

Honest men might well employ themselves to punish these Offenders: and doing it impartially, without respect of persons, may do much good to the Commonwealth, preventing these fellows from growing from bad to worse, by putting their ill-gotten gains to Usury; maugre their calling of them *Promoting knaves*. And I doubt not but I shall have such prayers as the Chaplains of their Calling use, for my pains.

If any Ale house keeper shall suffer any persons to sit tipling in his house above the space of an hour, he forfeits Ten shillings, and the Tiplers Ten groats a piece.

If any Alehouse-keeper suffer any one to be drunk in his house, the Drunkard forfeits 5 s. the Alehouse-keeper 10 s.

Every Alehouſe-keeper is to keep at leaſt one lodging-bed in his houſe, for the entertainment of ſtrangers: that is the intent of Alehouſes.

Neither is the Alehouſe-keeper to take any goods to pawn, of ſtrangers or wayfaring men; nor to entertain any ſuſpicious perſons, but to give notice thereof to the Conſtable or next Juſtice of peace.

Fore-ſtallers Regrators, and Ingroſſers are here alſo to be preſented or informed againſt.

If any one ſhall buy corn upon the ground, or other dead victuals, with an intent to ſell it again out of any Fayr or Market he forfeits the value of the goods ſo bought, and two months impriſonment of his body, without Bayl or Mainprize.

There is alſo an Act of Parliament lately made concerning Corn and Meal, That if any perſon ſhall ſell or put to ſale any Meal or Flour, in his houſe or ſhop, or otherwiſe then in the open & publike Market; before feits the treble value of the Meal or Flour ſo ſold: one half of which forfeiture goes to the poor of the Pariſh where the offence is committed; the other half to any one that will ſue for the ſame in any Court of

Record

Record by Information, Indictment, or Action of Debt, &c. And moreover the Meal-man is to suffer imprisonment of his body the space of one month, without Bayl or Mainprize.

If any one shall sell wine without License, he forfeits five pounds a day for every such offence; one half to the Protector, the other half to the Prosecutor.

If any one shall use any Art, Mystery, or Manual Occupation, having not been brought up Apprentice thereunto by the space of seven years, he forfeits fourty shillings a month for every month he shall so use it; one half of the Forfeiture to the Protector, the other to the Prosecutor.

If any person, of the age of sixteen years or more, shall wilfully absent himself from his Parish Church, and shall not repair thereunto or som other lawful Parish-Church or Chappel, during the space of a month; he forfeits for every month he shall so refuse going to Church, and not having a lawful excuse to the contrary, the sum of 20 l. the Forfeiture to be divided in three equal parts; one third part thereof to go to the Lord Protector, the other third part to the Poor of the Parish where the offence is

committed, and the other third part to the Informer; to be recovered in any Court of Record, by any person that will sue for the same, by Action of debt, Indictment, Bill, Plaint, or Information. *I see no reason why Anabaptists, and those called Quakers and Ranters to, should be exempted from the penalty of this Statute, any more then Papists.* But further to proceed to our Charge.

The Jury is to enquire also if all Constables, Headburroughs, Decimers or Tythingmen, and all other Suitors that owe any Suit unto this Court, be present here or not, to do their Suit and Service; and to present the names of all that are absent, or make default.

They are also to enquire if any Customs or Services due unto this Court, be concealed or holden back, how or by whom the same are so detained; and in what Bayliffs time the same was; and present the same.

Enquiry is also to be made, if any *Purprestures* be made upon the land, wood, or water, with blocks, staves, ditches, hedges, or by or with any other thing, manner or way done to the common annoyance of the people; and present it.

Also, if any Walls, Houses, Pales, or Hedges, be made or erected within the Jurisdiction of this Court, to the annoyance of the people; this is to be here presented.

If any High-ways, Waters, Ditches or Paths be turned aside out of their ancient courses, this is to be enquired of, and presented.

The Jury is also to enquire if any encroachments be made on the High-ways, or upon any of the Lords soil or common, or one neighbour upon another; and present the same.

If any Laystalls be made or any carrion be cast in High-wayes; this is enquirable.

Common disturbers of the peace, or such as make Frays in disturbance of the people or breach of the peace; this is to be presented.

If there be any common Barretors within the jurisdiction of this Leet, common Scolds, or makers of debate, to the annoyance and disturbance of their neighbours; this is enquirable.

Enquiry is also to be made of all Pound-breakers, such as break the common Pound, to take any Distress out of the same; their names are to be presented.

Also, the Jury is to enquire, if any persons shall make any Outcries against the Law, (where no cause is) to the disturbance of the people; and present their names.

Also if any Rescous be made within the jurisdiction of this Court, upon the Sheriff, or any of his Bayliffs, or any other Officers, in the execution of their Office; this is to be enquired of and presented.

Enquire also if any Eve-droppers, that is such as stand under walls, windows, or doors, or other places, to hear the discourse of others, and to carry tales thereof to others, thereby to make debate or strife amongst their neighbours, present their names. *All such offenders are to put in good security for their good behaviour; the offence highly deserving it.*

Breakers of hedges, and such as walk by night and sleep by day, are here to be enquired of.

All such as keep houses of Bawdry, or ill orders in their houses, to the breach of the peace, or disturbance of their neighbours, their names are to be presented.

All common Haunters of Taverns or Ale-houses, having not visible estates sufficient to live upon, they are here to be enquired

quired of, and presented, that they may give an account by what means they live. And under this Article, being well and duly examined to the purpose, you will finde many Thieves and Gamesters; from which number, my host himself is seldom to be excluded.

Also, if any go in any messuage for Thieves, knowing them to be Thieves, they are to be enquired of.

If any person have watered any Hemp or Flax in any river, running water, stream or brook, or common Pond, where cattel use to drink; they are to be enquired of: they forfeit for every such offence 20 s. the one moyty to the party grieved, or any man that will sue for the same in the Court-Leet, by Action of debt, Bill, Plaint, or Information.

But note, that if such an offence be presented by the Jury in a Court-Leet, the penalty cannot be levied, but the offender is there to be amerced, and the Amerciament estreated, and so levied: but it may be punished in the Leet, upon the Action or Information of any person against the offender.

If any persons have or use any false, counterfeit, or unsealed Weights, Scales or

Measures; or if any use double or two sorts of Weights or Measures, that is, one to sell by, and another greater Weight to buy by, which is a deceit to the people; this is to be enquired of.

The Assize of Bread is also to be enquired of; and it wants diligent enquiry whether Bakers do make their bread of a due size according to the Statute, and the rate and price of corn; and present the defaulters.

Also, if Butchers, Fishmongers, or any other Victuallers, sell any corrupt, or offer to put to sale any corrupt or unwholesome flesh or fish, it is to be enquired of. Also, that all persons that sell Victuals, sell the same at reasonable prices, according to the price of the Market adjoyning: and they that sell otherwise, and are thereof convicted, shall pay double what they receive, to the party that is damnified: this is therefore to be enquired of.

Enquiry is also to be made of Hostlers, that they sell not Hay or Oats but at reasonable prices; and that they do not take for the bushel of Oats but an half-penny over the common price in the Market; and that they take nothing for the Litter.

An Inne-keeper may bake his bread for horses, in his house, in any thorowfare-Town, which is no City where any common Bakers dwell. Provided that he make the same according to the prices of grain; otherwise it is presentable and punishable in Leet.

If any Millers take excessive Toll, they are to be enquired of. A Miller ought to take but the twentieth, or the four and twentieth grain, according to the custom, or the strength of the water.

Also, if any Miller change the corn or grain he hath ground, it is here enquirable and punishable.

If any Artificers use any deceit in their work to the deceiving of the people, it is here to be enquired of, and their names presented.

Also, if any Constable, Ale-taster, Bayliffs, or any other Officers within his jurisdiction of this Court, have not well and truly done their Offices, or neglected the same, it is to be enquired of and presented.

Whether the Constables and Tythingmen have done their endeavors to see the peace kept, and duly to keep watch and ward as the Law requires; it is to be be enquired of here and presented.

The

The Jury is also to enquire of Treasure trove; that is if any Money, or Plate, or other treasure be found, that was hid in the ground, and no man knows the owner, that is, who hid the same; this is the King's, unless the Lord have it by a special Grant or Prescription.

Enquiry is also to be made of Estrays; that is, if any Horse, Piggs, Hoggs or other cattel, or Swans, have come into this Lordship, and have been there a year and a day, and not claimed; then the same is the Lord's by Prescription: but the same ought first to be impounded in a lawful Pound, and proclaimed in three Markets next adjoyning: and if one claim them, then they shall be seized, and ought to be put into some several land, which is open and publike, and not into any covert, or wood, where the owner cannot finde them: for if they be in covert, the property is not changed, though they be there a year and a day

Waifs are also to be enquired after; that is to say, Whether any Thief upon Hue and Cry, pursuit or otherwise, doth waif his goods, that is, throw away or forsake his goods or any part thereof in his flight, such goods

goods are called Waifs, and the Lord of the Leet is seized thereof: therefore it ought to be enquired of, and presented here at this Court. Also, if any Officer seize upon any Thieves goods, though there be no pursuit; in this case, the Lord of the Leet shall have these goods.

If any flee for Felony or Murder; that is, if any be indicted for Felony or Murder; though he be acquitted, yet if it be found that he fled for the fact, he forfeits his goods and chattels to the King, or to the Lord by Charter: and this is enquirable.

If any horse or mare that is scabbed, mangie, or hath any infectious disease, be put into any Common or waste grounds; the owner thereof shall forfeit to the Lord of the Leet 10 s. this therefore is to be enquired of.

If any person be outlawed in Debt, Trespass, or other personal Action, his goods are forfeited, and the King shall have them unless they be granted unto the Lord by Charter: this is also here enquirable.

The Jury are also to enquire whether the common Fyne is duly gathered by the Bayliff or Headborough, and paid according to the custom of the Court, and com-

mon

They are also to enquire whether there be within the Leet a Pillory, and Tumbre and Stocks, to punish offenders according to Law. In every town where there is a Leet, there ought to be Stocks; and in default thereof, the Town shall forfeit, &c.

If any Baker, Butcher, Brewer, Victualler, Inn-keeper, or the like, doth take excessive gain for their Victuals, or do promise, covenant, or conspire together, not to sell Victuals but at a certain price, this is to be there enquired of and presented.

Likewise, enquiry is to be made if any Artificers, Workmen or Labourers have promised, covenanted, or conspired together that they will not make or do their work but at a certain price, and not to finish what another hath begun, or that will do but certain work in a day; they are to be presented, and punished according to the Statute of 24 *H.* 8, *cap.* 12.

Also, enquiry is to be made if any Tanner have put to sale any Hide of Ox, Bull or Cow, that is gashed or cut: he shall forfeit for every Hide so sold, 12. *d.* Also, no Currier ought to curry any Leather in a Shoo-makers house, nor to curry any Leather that is evil tanned.

Enqui

Enquiry is to be made in all Leets in Country-towns and Villages, if there be any Crow-nets to destroy Crows and Rooks, if they do not destroy the Crows nests: then they begin to breed: in default hereof, the Town is to be amerced.

You are also to enquire in the Leet, if any person hath by any means taken or killed the young Spawn or Fry of any Fish, in any Stream, river, brook, flood-gate, or in the Tayl of any Mill; or whether any person hath taken in any of the said places any Salmons or Trouts out of season, or any Pikes not being in length ten Inches, or any Barbel not being in length twelve inches, or any Salmons not sixteen inches, or Trouts not eight inches: all such offenders are here to be enquired of, presented and punished.

The Jury shall also enquire, if any person shall either by day or by night break down the head or dam of any Pond, Pool or Moat, wherein the Lord hath fish, with an intent to steal or destroy the said Fish; he shall pay to the Lord treble damages, and be imprisoned three months, and be bound to the good behaviour for seven years.

Hunters and stealers of Deer are here to be enquired of and presented.

No

No stoned horse, being of the age of two years, shall be put into any common, Forest, or Chase to pasture, except he be fourteen handfulls high, in pain to forfeit the said horse. Also, the said Commons ought to be driven at *Michaelmas*, not within fifteen days after, upon pain of 40*s.* and if upon the same driving there be found any Mare, Foal, or Gelding, not likely to be able to bear foals, or do other profitable service, the same shall be slain and buried. 32 *H.* 8 *cap* 13.

You shall also enquire whether Hue and Cry, and fresh Suit be duly made and pursued, after Robbers and Felons, according to the Statute of *Westm.* 1 3 *Ed.* 1. *cap.* 2. For if any man be robbed in the day-time, and the Thief escape, and is not taken within fourty days after the Robbery, for lack of Hue and Cry, the Burrough or Hundred shall answer to the party for his damages. Also, if any person be killed in the day-time in a Town, & the Murderer or Man-slayer escape, the Township shall be fined for his escape 18 *Edw.* 2.

If any persons, to the number of twelve or above, shall make any unlawfull assem-

bly,

bly, to break any Banks, Inclosures, Parks, Barns, Houses, and such like, and Proclamations be made by the Sheriff or Justice of Peace that they depart, and yet if they remain together an hour after such Proclamation is made, every such attempt is Felony.

Also, every Copy-holder, being a Yeoman, Husbandman or Labourer, of the age of 18 years, and under 60 not sick, not having a reasonable excuse, and being required by the Justice, Sheriff &c. to apprehend such riotous persons as aforesaid, and refuse, shall forefeit his estate during life and his Lord may enter. Also, the Farmer being a Yeoman, and refusing, forfeits to his Landlord, and he may enter.

Also it is Felony, if any person, without compulsion, bring, send or deliver any Money, Ammunition or Victuals to any person assembled in such manner. Also, the Justice of Peace, or other Officer, may raise a power to suppress them. And if any Officer kill any such Riotous or rebellious persons, he shall go free.

And if any person know of any such pretended rebellion, & do not openly declare the same within twenty hours next after

per ſuch knowledge, he ſhall be impriſoned three months without Bayl or Mainprize: and alſo, he that hindereth Proclamation that it cannot be made, commits Felony.

If any ſhall trace in the Snow, kill or deſtroy any Hare or Leveret with dogs or otherwiſe, he ſhall forfeit 6 *s.* 8 *d.* 13 *H.* 8. *cap.* 11.

If any Jury ſworn and charged to enquire concerning theſe offences, do wilfully conceal the ſame, then the Steward hath authority to impannel and charge another Jury to enquire of ſuch concealment. And if ſuch concealment be found and preſented by the ſaid Jury, then every one of the firſt Jury ſhal forfeit for every concealment of every offence 20 *s.* one moyety thereof to the Lord of the Leet, the other moyety to any one that wil ſue for the ſame by Action of debt, Bill, Plaint, Suit, or Information: wherein no wager of Law, Eſſoyn, or Protection is to be allowed. Provided the Suit be commenced within ſix months; otherwiſe the offender to be diſcharged thereof. 33 *H.* 6. 16.

Stewards in Leets have power to enquire concerning the erecting of Cottages, and maintaining of Inmates, and to puniſh by

Diſtreſs

Distress all offences comitted against the Statute touching Inmates and Cottages. 31 *Eliz. cap.* 7.

Stewards in Leets have also power to enquire, hear and determine all offences touching the making of Malt. 2 *Ed.* 6. 16. *Ed.* 2. 35. *Eliz.* 7.

Stewards in Court Leets shall enquire of, hear and determine all offences committed within their Liberties against the Statute for the preservation of Pheasants and Partridges. 22 *Eliz.* 6. 23. *Eliz.* 10.

Nevertheless, with a *salvo jure* to all Corporations and Bodies Politick, of all their rights and priviledges, to enquire and punish any of the said offences 1 *Eliz.* 17. 35 *Eliz.* 7.

Articles to be given in charge to Constables and Headboroughs, at Leets and Sessions with all Cities, Towns, and County Corporations, most necessary for the preservation of Peace, to which our present scope intends only: and this Direction well followed, will perfectly conduce thereunto, if such a preservative for the health of man can be attained unto under Heaven.

Therefore I say, These ensuing Articles ought specially to be enquired of, returned and presented by all Constables, Headboroughs, Tythingmen, Decimers and all sworn officers, who are enjoyned by Oath to preserve the Peace in their own persons, and in all others as much as in them lies; then to discharge their own duties, let them diligently observe and prosecute what follows, viz.

In Primis, They are to enquire and return all such persons as shal continue tipling or drinking in any Innes or Alehouses, at any time above the space of an hour, and more especially upon the Sabbath-days: and such persons as they shall find drunk, and also such Inkeepers and Alehouse-keepers as shall entertain them.

2. They are also to return the Names, Sirnames, Additions of Names and Qualities of all Popish Recusants (as wel housekeepers as Lodgers) dwelling or residing in any of their Parishes, Precincts, or Liberties.

3. The Names of such persons as shall profanely swear or curse, with the number

of

of their Oaths or Cursings immediately after the committing of such offence.

4 *Item*, Such as use victualling or selling Beer or Ale without License.

5. Such persons as suffer any unlawful Games in their houses, backsides, or Gardens, and also the Names of any that shall play at any of the said Games. This is a gangrene and spreading leprosie in this Commonwealth, a Vice abhorent to Christianity; yet (the more the pity) most favoured by them that should seek to suppress it, I mean, in plain English, the Professors of the Law: insomuch, that an honest cause shall never have any countenance or defence like one of these: and no persons are so much vilified, nay, a Felon shall have more favor then a lawful Prosecutor, I mean an Informer against these Caterpillers: *Sed tu domine usque quo?* But *nolens, volens*, (yet I hope to see the contrary) Mr. *Alehouse-keeper* will be the best man; yet I hope to see the tide run the contrary way. If men could but once learn wit enough to know, That *charity begins at home*; The Alehouse-keeper knows it very well: he'll be sure to look how the reckoning goes: and wise

men will keep reckoning at home, and not let him keep it for them; knowing that two pence a day is above fifty shillings *per annum*, and out of two pence the Tap-merchant gets a penny. Then judge what he gets by all the Flyes he catches in his Web. Certainly, did people once consider this, the Ale-wife would have few Companions better then her self, yet now she thinks the best scarce good enough for her, though the Causers of it have little thanks for their pains: when she hath gotten their money, it's seldom but they have a scoff or jeer into the bargain, because they should not complain of an unkind Hostess: And the worst mischief of all, is, That men very often insnare themselves to their utter undoing by the Alehouse-keepers and his *Temptators*, *Eavesdropping* of their discourse. And certainly none but fools will go to *game* for what is already their own, nor no Christian endeavour to come by, or enjoy by playing for what is anothers. And because the Port and Fountain of Gamesters is the Alehouse, I made this Digression soberly to advise three sorts of men:

The one is in general all honest people to

wish them (if they be not worse then Infidels) to avoid the Alehouse; for under that notion I conclude the gaming house too, knowing them to be inseparable companions. And therefore I say again, It were well if it were ordained, That every Alehouskeeper should have at his door the sign of the Begger; for from that spring, the Alehousekeeper original comes when he first enters into his order; and before he leaves, he makes all Beggers that frequent his company: therefore such a sign might give warning to others to let him alone, and keep his beggerly condition to himself, which might enforce him to work for his living as honest men do, and not grow so fat by the sweat of other mens brows.

The second sort of people I would speak to, in my intended hopeful Instrument of Reformation, is the Professors and Practisers of the Law; these should seek to punish vice rather then promote it; *Ergo*, I would desire them to honor their profession so far as not so earnestly defend as they too much do, the Destroyers of the publick Good; that is, the gamesters and Alehousekeepers and all breakers of penal Statutes. Well,

Semel dictum sapienti sat est, I'll say no more, for I expect little thanks for this: *R. T.* Rhadamanthus.

The third sort I would advise is, such men as take upon them, or will undertake the prosecution of all penal Laws and Statutes against the contemners and breakers thereof; which persons are usually called Promoters and Informers *&c.* Be sure, let me advise you to shoot home where you begin let no fair tongues ensnare you; promises nor hopes of reward entice you, to be caught in their nets; when, for the lucre of a small Fee (which they al generaly seek to ensnare you with) you release them, and undoe your selves. But, I say, draw your Arrow to the head, and he will flie to the mark: if you prosecute the Law to the utmost without favor or affection, you do that the Law intends you for, and shall bring profit and tranquillity to the Commonwealth in general, and to your selves as good members thereof in particular, maugre all opponents; doubt not but our *Law-makers* and *Keepers*, whom God hath now raised to protect us, will defend you in the execution of Justice: and the better to direct you, I wil immediately lay

down

down, and declare to you the heads of the penal statutes, as soon as I have done with my ensuing Articles.

6. Constables and Headboroughs are also to present such persons as do refuse or neglect to do their duty of watching or warding.

7. *Item*, Such persons as divide their Houses into several Tenements; and such as do entertain Inmates, who may be an annoyance to their Neighbors, or likely to bring charges upon the Parish.

8. *Item*; The Defaults of petty Constables Head boroughs, and Tythingmen (these are the same in Nature, though different in Name) for not causing Rogues, Vagabonds, and Beggers to be duly apprehended, punished and passed, according to the Statute.

9 *Item*, All masterless men and women living at their own hands, such as are idle and will not labor, and can give no good account how they get their living: all suspicious persons, Whores, Night-walkers, and mothers of Bastards, which may be chargeable to the Parish.

10. *Item*, The Names of such Persons as refuse to take to Apprentice, poor Pa-

riſh children, to Husbandry, and other Callings according to Law.

11. *Item*, All ſuch as neglect to make due rates and collections for the relief of the poor in every pariſh, and that cannot give a juſt account of the imployment of the rent and ſtock of the poor.

12. *Item*, The Defects of the Highways and Bridges, with the names of ſuch as ſhould repair them, and have neglected or refuſed to do their duty herein.

13. *Item*, Such Scavengers as neglect to do their office, in cauſing the Streets to be kept clean within their Liberties; and the names of ſuch perſons as commit common annoyances, by laying of dung, ſoyl or aſhes in the Street.

14. *Item*, The names of ſuch perſons as neglect or refuſe to pave the ſtreets before their houſes, where the ſaid Streets have uſually been paved.

15. Such perſons as keep any Hogs in the Streets or elſewhere to the annoyance of the people. *Theſe three laſt are only proper for Towns and Cities.*

16. All ſuch Bakers as put light bread to ſale, and the weight thereof; and ſuch Brewers as ſell Beer or Ale to unlicenſed

Alehouse-keepers, and such as ingross any Corn, Grain, or any dead Victuals.

A Compendium of all such penal Statutes as concern foreſtalling, ingroſſing, regrating, Millers, Bakers, Brewers, Clothworkers, Alehouſe-keepers, Gamers, Wine without Licenſe, Recuſants, mealmen, Uſury and Extortion, ſhould here imediately follow; but in regard we finde them too prolixous to be annexed to the Court-Leet, in regard it makes too long a paſſage to the Court-Baron; and we not being willing to emit any part thereof, conducible to the common good, ſeeing we intend this Treatiſe chiefly for the inſtruction of the ignorant in this moſt needfull knowledge, as well for the plain Country-man as for the benefit of the ſtudious Tyro *in the Law Practiſe; We ſhall reſerve the addition of the penal Statutes, as an Appendix in the cloſe of the Book, and proceed to the Court-Baron.*

Now becauſe the Court-Baron is always an adjacent Neighbor, if not a Companion with the Court-Leet; I ſhall

ſuc-

ſucceſſively give you the form and matters of charge to be enquired and puniſhed there.

The Court-Baron holds Plea of all perſonal actions and treſpaſſes made within the Mannor, where the Tenants are and ought to have Juſtice at home, and not to be at the charge of a Sute at *Weſtminſter*, for every petty action: where ſometimes the damage is not three pence, 20 *l.* is ſpent in deciding the Controverſie.

This Court ought to be kept every three weeks; and to that intent, the Lord receives Rents and Services of his Tenants to do them Juſtice: and ſome hold their Lands onely, by this ſervice of doing Sute of Court, and theſe Suiters are the Judges of the Court, though I believe few Lords know a reaſon why they receive their Quit-Rents; and few Tenants wherefore they pay it: by which means, the due keeping of theſe Courts, is in many, nay, moſt places neglected, to the great injury of the people; But a remedy they may have againſt the Lord for the non-uſage, or abuſe thereof, which ſhall herefollowing be declared; but to proceed. Firſt, enter the

Stile

Stile of the Court, which is after this manner, *Holshot*, ſſ. The Court-Baron of *J. W.* held there on *Friday* the 24 of *March* in the yeer of our Lord, 1656.

When the Stile of the Court is entred, call the Suiters and Tenants, entring their appearances and defaults; then make Proclamation; *That if any one will be eſſoyned or enter any plaint they may come in and be heard.*

After the Eſſoyns, and Plaints and Pleas be entred, then impanel the Jury, and ſwear them.

The Oath is after the ſame manner as the Leet, only leaving out theſe words, *The Council for the Protector*, &c.

Then after ſilence made, proceed to give in charge theſe Articles enſuing:

Firſt, the Jury is to enquire of the Suiters which owe any Sute to this Court, whether they do attend the Court or no, and preſent the Defaulters.

Secondly, Enquire whether any Tenant be dead ſince the laſt Court, or before, whoſe death is not yet preſented; and preſend the ſame; and what Lands and Tenements he held of his Mannor at the time of his death, and by what ſervice;

and

and who is next Heir to the ſaid Inheritance.

If it be Socage-Tenure, the Lord ſhall have his Fealty & one yeers Rent for a relief over and above his yeerly Rent: (I do not mean the Rent to the value or profits of the Land; though many Lords of Copyholders, have much miſtaken themſelves of late, in this caſe, or elſe the Tenants do too much miſtake themſelves, to the Tenants undoing, when the fine hath been ſtretcht by the cloak bag-ſtrings of the Lords conſcience:) and for his relief, the Lord may diſtrain immediately after the death of his Tenant.

You ſhall enquire whether any Freeholder hath aliened, or ſold away his Freehold, or any parcel thereof, and preſent it: for he which bought the Land, before he enter, ought to give notice thereof to the Lord; and if he bought but a parcel, the Rent ought to be apportioned accordingly between both parties, according to the value of the Lands ſold.

Fourthly, Enquire whether any one man hath two ſeveral parcels of Land holden by ſeveral Titles, & dieth ſeized of the ſame: the Lord ſhall have two Herriots by his death.

You

You shall also enquire whether any Copy-holder dieth, seized of any Lands, so holden, and present it. Also, whether any Copy-holder hath made any Lease of his Copy-hold, or otherwise aliened or sold the same, without surrender, and present it; for it is a forfeiture of his Copy-hold.

Enquire also whether any Copy-holder hath made any surrender of his Copy-hold, or any part thereof, since the last Court-day, or before, and present it; and into whose hands it was made, and to whose use: for at every death, or other alienation, the Lord is to have a Fyne (*were it not for this, few Lords would keep any Court at all, though they ought to do it, to do justice to their Tenants;*) and the party into whose hands the surrender is made, ought at the next Court to present the same, and to certifie the surrender into Court to the use of the alien, according to the trust reposed in him, on pain of forfeiture of his Copy-hold; and the party that receiveth the surrender is not invested in any right in the estate by the surrender, unless he be admitted Tenant in Court.

Enquire also, if any Tenant of this Manor

nor, have given any of their Lands into Mortmayn, and present it: if any man give or sell any Lands to any house of Religion, or to any other which be corporate by the Kings Grant; or if any one make any Feofment upon trust to the use of any Religious house, or to the use of any Fraternity or Corporation: this is Mortmain.

You shall also enquire whether any Tenant, for term of life or yeers, or any Copy-holder of this Lordship, hath made any waste, or suffered any waste to be done upon their Lands and Tenements, and present it.

Waste is when any Tenant for term of life or yeers, or any Copy-holder pulleth down any house, or cutteth down timber-trees, or suffereth any of his Copy-hold-Tenements to decay or fall, or if any of the Tenants plow up any medow grownd, or if they suffer any wall or pale which was covered, to be uncovered, by reason whereof, the same wall or pale doth fall: or if any Tenant dig coals, chalk, sand, or make any Myne in his Ground, it is commitment of waste.

But if a Tenant sell timber to repair Houses in decay upon his Copy-hold, and therewith doth repair them, or therewith build

build a new house, or any new building; this is not waste. But if he cut down and sell any such Timber, this is waste. Also Copy-holders may cut down Wood to burn upon their Tenements, or to make Reparations without waste.

Enquire also, whether any Tenant died, seized of any Lands holden of this Mannor, having no Heir at the time of his death, his Lands shall escheat to the Lord.

None shall inherit Lands in Fee-simple, unless he be Heir of the whole blood; and understand, that a Bastard can never be Heir unto any man; neither can he ever have Heir, but his children of his own body lawfully begotten: therefore, if any Bastard die without issue, or any other Tenant die, seized without Heirs, present it.

Also, if any Tenant seized of any Lands or Tenements, was ejected therefrom by one that had no rightful Title thereunto, and after dies without Heir. the Lord shall have his escheat, as well if the Tenant had died seized: *ergo*, enquire thereof, and present it.

Enquire also, if any Tenant of this Mannor hath been attained for any Treason,

son, Felony, or Murder, for which he had judgment, although he were afterward delivered, or were burned in the hand: the Lord hath his Lands by escheat: or if any one hath abjured the Land or be outlawed for any Treason, Felony, or Murder, present it: for the Lord shall have his Land by escheat.

You are also to enquire, if there be any rents, customs, or Services withdrawn from the Lordship which are due, and of right ought to be done thereunto; and what Rights, Customes, and Services they are, by whom withdrawn; and where the Land lies out of which they be due, and who holds the same, and present it.

Enquire also, whether any Waif or Stray was or is within this Lordship; and whether the Lord be answered of the same; and if not, present by whom they are detained; and if any Heriot be conveyed away or concealed, present it, and by whom.

And here it will not be any digression to tell you what a Waif and Stray is.

A Waif is if a Thing being pursued, or other

otherwise to ease himself of his burden, doth leave and forsake his goods, which he hath stollen, or any part of them; such Goods are called Waifs: and the chief Lord shall have the Goods so waived, unless the Owner of them, do make fresh suit after the Thief, and attach him for stealing the said Goods; in such cass he shall have his Goods again, though they be waived; but then he must sue an appeal, or else procure the Thief to be convicted at his Sute, 21 *H. cap.* 12.

An Estray is, if any Beast be found in the Lordship, and no man know the Owner thereof, they shall be seized to the use of the King, unless the Lord have them by Grant or Prescription, if the Owner do not claim the same within a year and a day after the Lord hath caused Proclamation to be made in the next Markets, and in the Church, according to the Statute.

Also enquire, whether any person hath made any Rescous against the Lord or his Officers within the Mannor, and present it: That if the Lord come to distrain for his Rent, and the Tenant resist him, that he cannot distrain, this is a rescue; or, if Beasts distrained run into the house of the

Owner, and the Distrainer prays them to be delivered to him, and the possessors will not deliver them, it is a Rescue.

You are likewise to enquire of, and present all pound-breaches; whether any person hath broken the Lord's Pound, that is, to have taken away any distress put therein: if the Lord do distrain for Rent or service behinde, he may impound the distress either in a common Pound or in his own Ground, if he will, or in his Neighbors Ground, by the License of his Neighbor: and any place in which the Lord doth impound, is the Lord's Pound: but if any other person do impound any Cattle in his own Pound or his Neighbors, he ought to give notice thereof to the other party, that is, to the Owner of them, that he may give them meat if he will; and then if the Beast die for want of food, he that was distrained shall be at the loss, and he that did distrain, may distrain again for the same Rent or Duty.

Enquire also, if any Inhabitant have overcharged the Common, or High-ways, or common Fields, by putting therein more Cattel then they ought to keep, or before the days agreed upon, and present it; for

the Lord may distrain the Surplussage, Damage Feisant.

There may also be made certain Orders by the Inhabitants, one among another, which none may break under such penalties as they agree upon between themselves.

Also you shall enquire, whether any persons have digged any Holes or Pits in the High-wayes, or whether any use commonly to break Hedges, or suffer any Hoggs to go unringed or unyoked, to the annoyance of their Neighbors, and present the same.

Enquire likewise whether any person hath stopped any Water-course, Way, Ditch, Path or Stile, or turned any of them out of their way, and present it; have a care in this case you present no man malitiously; a foot or two to step about its, not so great damage to any as to cause a suite more then the value of the land, as some have done, and after repented too late.

Also, whether any Tenant hath made any incroachment upon any of the Lord's Land, Meadow, Pasture, Wood, Heath, or other vacant Ground, without the Lord's leave; or hath set his Hedge or Pale, beyond his due bounds, & present the same.

Alſo enquire, whether any perſon hath plowed up, or removed any Meerbanks, Banks, or removed any Bounds or Limits between one piece of Land and another, and preſent it.

Alſo, you ſhall enquire whether any perſon doth detain or keep away, or detain any of the Lords Court-Rollsor Evidences and preſent the ſame.

Alſo if any perſon have Hunted, Hawked, Fiſhed or Fowled in the Lord's Warren, and preſent it.

Alſo, you ſhall enquire, if any perſons have taken any Eggs of the Lord's Swans out of their Neſts, and preſent their names.

Enquire alſo if any treſpaſs be done in any of the Lord's Liberties, either in his Corn Graſs, Meadows, Paſture, Woods, Waters, Ponds, or Hedges; or take, or deſtroy any Aiery of Haws, and preſent the ſame.

Enquire alſo, if any Land be incloſed that ought to lye open, without the licenſe of the Lord and other Freeholders, and preſent the ſame, that the Tenants of the Mannor may not loſe their Common thereof.

Enquire

Enquire also, whether any Tenant for life or term of yeers, hath let any greater or longer estate in his Lands or Tenements then he hath therein; it is a forfeiture of their Estates.

Enquire lastly, if all the Defaults and Plaints presented at the last Court, be sufficiently and duly amended: and whether all the Orders and Rules made heretofore concerning this Mannor, be observed and kept, and present it; and if you know any thing more fitting to be, or that ought to be presented for the Lords profit, or your own common good, diligently enquire thereof, as you are in conscience bound, according to the Oaths you have taken, and are obliged to both by God and man: studying as much as in you lies, the general good and welfare one of another: and to that end, of all matters given you in charge, and here to be enquired of, make a true presentment, distinctly and plainly without malice, in speaking more then is true, or favor in concealing any one that is culpable, against the truth.

The form and manner of proceeding in personal Actions both in the Court-Leet, Court-Baron, (& also the hundred Court,

which is also a Court held generally every three weeks, to hold plea in personal Actions, where the debt or damages exceed not 40 *s.* by the Sheriff in many places, or by his Steward, if the King be Lord thereof; or if it be a particular Lord, by his Steward for the whole Hundred:) I say, the Process of these Courts, is, Summons, Attachment and Distress, to be directed by Precept from the Steward of the Court to the Bayliff of the same, where it lies in the choice of the Plaintiff either to summon the Defendant, or attach his Goods; which he must put in Bayl unto, to appear at the next Court to answer the Defendant, which is usual in trespass: but in debt, onely a Summons without bayl; a laudable way of granting out Process in all Courts of Judicature, coming neerest the purity of the original and ancient practice of the Laws of this Nation.

And if the Original in the Court of common Pleas were only used, and the *Capias* taken away, or rather indeed a *Sub-pœna* only in all Courts, & an Attachment to follow in case of Contempt, how much vexatious charge & trouble would the people of the Nation be freed from, and their Estates

and

and persons saved from the devouring clutches of those ravenous Wolves, the Catch-poles and Sergeants, to which honest men are often enforced subjects; when perhaps, nay, most often, less charge would end the difference then these men expose both parties unto: and for which, both Plaintiff and Defendant sit down losers.

But because it is our earnest desire to pursue peace as much as is possible with all men we, shall here lay down a method of keeping a Court of Survey; which if all Lords and Tenants would, as if they will, with a little charge they may, joyn together, and perfectly observe, the Right and Propriety of every man might be known and registred amongst them, and thereby many tedious, consuming, troublesome Title-Sutes at Law, avoided; for by this means every one might know his own; and he that will not therewith be content, deserves nothing.

The manner, form, and method of keeping a Court of Survey for the surveying, setting forth, Butting, describing and bounding of any Mannor or Town; with the several Tenures belonging to the same. With the form of making a Terrar or Field-book, and the Articles to be given in charge to the Jury, in a Court of Survey.

Articles to be enquired of and given in charge in a Court of Survey holden for the Mannor of A. in the Parish of H. in the County of N. the 8 day of May, 1656.

Inprimis. Who have, or are suspected to have, or keep back any of the Lord's Evidences, Court-Rolls, Rentals, Books of Survey, Terrars or Writings whatsoever, concerning the said Mannor, and who have been Stewards of the said Mannor within the time of your remembrance.

Note,

Note, if there be a Survey holden for two Mannors or more, at one time; then say, instead of *Mannor*, *Mannors*. *And the said Manners, or either of them.*

2. *Item*, That you inform what Limits and Bounds belong to the said Mannors; and what Lords are bounding or bordering therupon, or whether they do chalenge intrude or encroach upon the Lands of the Lords of the said Mannors.

3. *Item*, That you set forth the Free-hold Lands and Tenements, within the said Mannors from the Copy-hold, customary and demeasne Lands of the said Mannors, and either of them, or any other Mannor, and who are the Free-hold Tenants or Occupiers therof, and what are their names and what Free-hold *Rent* do they severally pay to the Lord of the said Mannors for the same.

4. *Item*, What alienations, transmutations or alterations have been made of any Free-hold Lands within or belonging to the said Mannors or either of them, and what is due to the Lord upon any such alienation, tranfmutation or alteration.

5. *Item*

5. *Item*, What Houſes or Tenements of Freehold are now ſtanding, or have been decayed within the ſaid Mannors: by whom and when were they ſo decayed; what Laws do or heretofore did belong to every ſuch Houſe or Tenement: and what Lands have been ſold from the ſaid Houſes or Tenements, and to whom.

6. *Item*, What Tenements or Cottages are lately built within the ſaid Manors, that are holden at will, or ſufferance, or by Copy of Court-Roll of the ſaid Mannors, or either of them, or any other Mannors, and who be the owners or occupiers thereof, and what Rents and Services do they yield and pay for the ſame, and what Laws do belong to every ſuch Tenement and Cottage, and how long ſince have any ſuch Tenements or Cottages been built, and what Commonage do they challenge for the ſame, and by what right, and what is the name of ſuch Common or Commons they challenge Commonage in.

7. *Item*, How many Copy-hold or Cuſtomary Tenants, are within or belonging to the ſaid Mannors, and either of them and what be their ſeveral names, and what

Meſſuages

Messuages, Lands, Tenements, or Hereditaments, hath every such Copy-holder or Customary Tenant; what are their several quantities and yearly values, where do they lie, and how they are abuttalled, and by what Rents and Services doth every such Copy-holder hold the same.

8. *Item*, Whether any of the Copy-holders within the said Mannors have exchanged, bargained or sold any of their Copy-hold Lands or Tenements to any Free-holder, and what are such Lands and Tenements so bargained, exchanged and sold, yearly worth, and where do they lie.

9. *Item*, Whether any Copy-hold or Customary Tenant of the said Mannors or either of them, hath let or set for any time or term of years, his Copy-hold, or Customary Lands or Tenements, or any part thereof, without the Lords license, and whether any enjoy any Copy-hold, or Customary Lands, not having a Copy or Grant thereof immediately from the Lord of the said Mannors, and what be their names, and the yearly value thereof.

10. *Item*, What Lands, Tenements, Rents, Services or Hereditaments, within,

or

or belonging to the ſaid Mannors, are withholden, concealed, or ſubſtracted from the Lord of the ſaid Mannors, by whom, and when, *&c.*

11. *Item*, What Heath-Grounds, Sheep courſes or Sheep-walks are within or belonging to the ſaid Mannors, how are they ſcituated, ſet forth, or bounded; and how many Acres, do every ſuch Heath Sheep-courſe or Sheep-walk contain, by meaſure or eſtimation; and how many Sheep will the ſame yearly maintain and keep, and what other Priviledges or Cuſtomary Feede do belong to the ſaid Sheeps-courſe or Sheeps-walk; and where do the ſame lie; and at what time or times in the year is the ſaid Priviledge and Feede to be taken, and what is the yearly value of the ſaid Sheep-walk or Sheeps-courſe.

12. *Item*, Whether any can or do juſtly claim or hold any Land that lies within the ſaid Heath-Grounds, Sheep-courſe or Sheeps walks, and by what right do they hold or claim the ſame, and how much Land have every ſuch Land-holder, and whether have they not other Lands of the Lord of the ſaid Mannors in Leiu or ex-

exchange thereof, and where do the said exchanged Lands severally lie: and how are they abuttalled and bounded, and what be the several Names of the Occupiers of such Lands, and their several quantities.

13. *Item*, What Commons, commonable Grounds, waste and vacant Grounds are within and belonging to the same Mannors, and what be their several names: how are they scituated, meered, set forth or bounded; and how many Acres doe every such Common, commonable Grounds, waste and vacant Grounds contain by estimation, and who can and do justly claim or pretend to have any Common of Feede in the said commonable Grounds, waste and vacant Grounds, and what be their several names.

14. *Item*, What Inclosures and Incroachments have been made at any time heretofore, and now being in, upon, or out of the said Commons, commonable Grounds, waste and vacant Grounds, by whom, where, and when were they made, and what quantity, and by what warrant or right they did or do hold the same.

15. *Item*, What plantings or Trees is now,

now, and have been heretofore set or growing upon any of the Commons belonging to the said Mannors or either of them, by whom they have been so set or planted, and what be their names that challenge the same as belonging to their Houses or Tenements, and what be the names of such Houses or Tenements, and how far off are the said Plantings or Trees planted or growing from the said Houses or Tenements, and what number of *Plantings* or trees do they severally challenge to belong to their said Houses or Tenements, and by what right; and who ha h lopped, felled, sold or converted to their own use any such Plantings or Trees, and for how much do they or any of them hold the same.

16. *Item*, What demeasne Lands are belonging to the said Mannors, and either of them, and where do they severally lie, and how are they abuttalled, and what be their several quantities and qualities and their yearly value; and what be the names of them that have them in Farm, exchange or Occupation; and for what Rent and term, or for what cause do they severally hold the same.

17. *Item*, What Liberties, Freedoms Franchises,

Frankchiſes, and other preheminences and royalties do belong or appertain to the ſaid Mannors, what are the ſame, and what profit may be yearly, or otherwiſe made or raiſed by the Lord thereby.

18. Laſtly, to enquire and certifie who ſhal neglect or refuſe to bring in and ſhew forth their Deeds or their Evidences of all their Free-hold Lands and Tenements within the ſaid Manor, together with all their Copies or Court Rolls of all ſuch Lands as they ſeverally hold by Copy of Court-Roll of the Mannors aforeſaid, for the better ſetting forth and diſtinguiſhing of the ſaid Lands accordingly, whereby the Survey of the ſaid Mannors may be made the more perfect.

The manner of making the Terrar or Field-Book, may be thus:

A general Survey and Field book taken at H. in the County of S. holden for the Mannors of G. and H. by R. T Steward and Surveyor of the ſame the 10 day of M. 1656. wherein all the Meſſnages, Lands, and Tenements in the ſaid Mannors, are ſet forth,

forth, butted and bounded. The Tenure how all such Lands are holden, and who be the right Owners thereof.

Then begin at what part of the Town you please; so go through, setting down every parcel of Land, Messuage or Tenement distinctly, abutting and bounding it: and at last, set down the Tenure and Title of the Owner or Inheritor, according to his evidence for the same: as thus; if you begin at the Mannor house, then begin your Survey Book.

A. B. Esq; Lord of the Manner of H. &c. holdeth one Messuage or Mannor-house; being the scite of the Manner aforesaid, in his Demeasne as of Fee, together with Barns, Stables, Dove house, Orchards, Garden, &c. abutting and bounding the same exactly.

Then proceed to the next land as you go, whether East or West: if, East, then thus.

A. S. *holdeth next, and more East, twenty*

twenty Acres of Arable Land, abutting, &c. as it lies, &c. by Copy of Court-Roll: ut patet per Cop. suam de Rotulis Curiæ,

If it be Free-hold of Inheritance, then say;

A. S. holdeth of the same Manner, one Free-Tenement, &c. abutting it exactly and putting down his Title and Tenure, according to his Evidence.

If the Lords of Mannors, and Tenants in their several Parishes and Towaships would but joyn together, with a little charge, they might have Books of Survey made of their several Mannors, wherein each mans Propriety might be recorded and known: and this being done, but once in an age, or by every succeeding Lord, his Tenants and himself might live in amity and tranquillity; and many chargeable and vexatious Law-Suits, to the undoing of thousands, avoided; and people might quietly follow their Vocations at home, and not the promotion of others, by the ruine of themselves; But

probably the Obstructors of Peace will give me small thanks for this. Oh *Monnsieur Self-ends* and *Avidus*! when wilt thou depart from us? *R. T. Pacis dulcis Amator.*

Acording to promise, I shall proceed to declare the manner of proceeding in some inferiour Courts of Record of this Commonwealth; but declaring them fitter Objects of Reformation then Practice; they were indeed originally instituted for the more speedy administration of Justice, between party and party, in their Corporations: but are now, by the corruption of time, become Instruments of vexation and injury? and because they are seated in the *Metropolis*, I shall first begin with the Sheriffs Court of *London*.

There is holden at the *Guild-hall* for the City of *London*, two Court-days for one *Compter*, holden before one of the Sheriffs; and two Court-days for the other *Compter*, before the other Sheriff in every week: holding Plea in all personal Actions *ad infinitum*. Their Practice in both Courts, differs neither in manner, nor form,

form, nor substance; but the beginning of their proceeding, I mean, the levying of their Plaints is the most unjust and illegal, both in the eye of the Law, and of all Rational people of any Court in the World.

For indeed the blame of all Courts is that they do not issue out Summons, and take sufficient Pledges to prosecute upon the Return of the Summons, as the Law originally intends, before the awarding of any *Capias*, for arresting the Body of the Defendant: but return an Original (of course (as they call it) sometimes, and sometimes not at all) putting *John Doe* and *Richard Roe*, for Pledges to prosecute; whereas indeed, there ought to be a true Summons first returned, and Pledges, that is, sufficient Sureties, That if the Plaintiff do not prosecute, or be overthrown in his Action, the Defendant shall be satisfied his costs and damages for his unjust trouble, charge and vexation.

But the Practice of these Sheriff-Courts is so far from this, that they make out no Process nor Precept at all for to warrant their Arrest. But they have a Book in their Office at the *Compter*-gates, wherein they enter the Actions, that is, the Plaintiffs and

Defendants Names, and the Debt or Damage; and that is all: And this is most often done after the party is arrested and in Prison: for if two of their Varlets meet a man in the street, minding to make a prey of him; for which they continually lurk, they immediatly seize on him, if they know but any person he hath any dealing with, be the Case right or wrong, they presently drag him to the *Compter*, or their petty Goals at next door, and then run and enter against him what Actions they please, in the Name of any Man. And at the next Court-day, the Defendant perhaps after two or three days imprisonment, may obtain a Non-suite; and shall have adjudged him 7 *s.* 2 *d.* for his Charges, which is not the tythe thereof: and that he may look for, if he can tell of who: or any man whatsoever, that hath any envy in his breast, which there are few that want, may come and enter an Action against any man he's minded to do a mischief unto, and keep him in Prison (at 8 *d. per* week charges to the Knave) as long as he lives. And their way of taking of Pledges of prosecuting, is thus: To demand of the Plaintiff, or he that enters the Plaint, where

he

he lives: if he say in *Fleet-street*, then then they enter Pledges to prosecute, *John Fleet*, *Richard Street*; if in *Common-Garden*, then Pledges, &c. *John Common*, *Richard Garden*: according to the place the party names, though no such man be.

And it is a great oppression to Country-people, who are thus snapt up by irregular Proceedings. This is not to expedite Justice, but to disgrace the Law, and wrong the Commonalty. By this means, I have known many utterly undone; and some have lain in Prison five weeks upon this account, and never knew, heard of, nor could never find out his Adversaries.

And then, after this he hath non-suited their Actions, entred over and over again, they take a President from a worse then this, that I must take so much leave, as plainly to speak of; that is, the Court of Upper-Bench, from whence issues a Writ, called a *Latitat*; or in the County of *Middlesex*, A Bill of *Middlesex*: and uppon the supposition of one of these returned, though never any such thing be, they reward a *Latitat* into all Counties, to take the Defendant, without naming the

cause, onely Trespass, be it what it will be; upon which, if he cannot put in bayl, he shall lie in Prison three Terms, which sometimes with the Vacations to boot, is above three quarters of a yeer: and then if the Plaintiff declare not, he may obtain his Liberty by a *Supersedeas*, if he hath money to purchase it: but not a farthing costs, or any remedy against the party that injured him by this wicked practice, many a poor Soule miserably endes his dayes in Newgate. If a man be arrested by a *Latitat* out of *Middlesex*, and the Plaintiff never declare after he hath put in Bayl, he shall not have any costs, but only a Non-suite or a Discontinuance as they call it, unless the Defendant appear in person, and that is hardly worth his while. This I make bold here to mention, because it is a Grievance cries loud for Redress, and so doth the City-Court too: for can it seem reasonable that any man should be arrested and imprisoned he knows not why nor wherefore? and most times irregularly, the Serjeants having the advantage to do it without Warrant, or any Precept or Process to be shown; oftentimes, nay,

most

most commonly imprison the Defendant without any Action entred against him. This Practice was abhorred by the Heathens: and then is it not a shame it should be tolerated by Christians?

But after the Arrest, the Defendant appearing by Attorney, the Plaintiffs Attorney declares if cause be; and then they fairly proceed to Trial, according to the substance of the Proceeding of the Upper-Bench, though different in form, and to the Defendant, if he be a Free-man, in case of debt, is allowed four Defaults, by which time he may make his peace if he be wise.

And by the way, give me leave to tell you, that I have read, and I am sure 'tis reasonable, That it is not lawful for a Citizen, or one living in a Corporation to arrest any Stranger that inhabits in another Country, into one of these Courts; but by Process from above: for these Courts had their Authority granted them originally from the King for their ease, and the more easie dispatch of Justice between one another in their several Franchises: for as the Forraigner hath no benefit by their Franchise; so ought he not to be impleaded in their Courts. Besides, a great disadvantage

gage lies upon the ſtranger being far from home, and diſtant from Friends, is too often enforced to purchaſe his Liberty by an unjuſt Compoſition.

There is alſo a Court holden before the Major and Alderman in the *Guild-hall* of the ſaid City, unto which the Sheriffs Court is ſubject by removal, and both of them to a *Habeas Corpus* out of the Upper Bench or Common Pleas, if the Action be not under five pounds; and if it be, then the Defendant may cauſe another Action to be entred againſt him, at the ſute of any perſon he will name, which is above 5 *l.* and remove both together.

There is alſo another Court of Equity, held between one Freeman and another in the ſaid City, wherein they regularly proceed by Summons in all Debts not exceeding 40 *s.* and pity it is that the Authority of that Court extends no higher.

Thus by the head, you may gueſs at the whole Body; I mean, the Proceedings of all Corporations: for letting the firſt Arreſt or Proceſs aſide, when they come to declare, they do generally in their Declarations imitate the Bills and Declarations of the Upper Bench.

I would be larger, but I proceed to other things here more aimed at: only by the way let me desire the Stewards and Judges of all such Courts, to be careful in amending what Errors they finde have through the rust of Antiquity, crept in among them: endeavoring as much as they can the ease of the Subject, and equal Right to all.

I Certain

Certain Questions and Cases in Law, Resolved.

1. JOHN Doe *surrendred to his Wife certain Copy-hold Land of Inheritance to her, and to the Heirs of their two Bodies, to be begotten; and for default of such issue, to the right heirs of the said* John Doe; *but in the said surrender, doth not express that he gives it to her for her Joynture, although it was his intent she should have no other Dowry whether is this a Joynture or not.*

2. *The said* John Doe *died without Will, his Wife administred, and there was certain Timber felled for the repair of a Copy-hold belonging to the Heir, which the Praisers refuse to put into the In-*

ven-

ventery for the reason aforesaid. This Widdow marries again, and her Husband takes away the Timber so felled from off the Lands belonging to the said Heir: whether is this Felony or not?

3. Her said Husband is the Lord of the Mannor, and doth detain and keep certain Writings from the Heir of the said Deceased, refusing to keep any Court where the Heir should be admitted Tenant to certain Copy-hold Land lying within his Manor; but doth distrain for Quit-Rent upon the Land belonging to the Heir, refusing to deliver the Heir his Writings, or shew any Title he hath to the Quit-Rent.

4. Whether the aforenamed Surrender being accepted and taken, doth not barr the woman to have any Dowry either in Fee or Copy-hold Lands, after her deceased Husband, although the Custom Book of that place where the Copy-hold lieth, renders the Widdow of the Deceased the third part of the Lands, that her Husband died seized of?

5. What sorts of Wood is accounted Timber by the Law; and whether the

Wo-

Woman by vertue of the aforenamed Surrender, can cut and sell any manner of Woods growing upon the said surrendred Lands, to make a waste and spoil: or whether the Land restrains her but to cut for necessary uses?

6. Whether the Widow of the Deceased in her Widdowhood letting a Leese Parole for five yeares of her surrendred Land, contrary to the Custome, ought not to make good the said Leese Parole to the Tenant, because he shall be much dawnified if he enjoy not the same?

7. If a man taken with an Execution for Debt by the Sheriffs Bayliffs, and the said Bayliffs suffer him to make an escape, and the Creditor reneweth not the Execution in two or three yeares after, whether may he afterward bring his Action against the Sheriff or the Debtor?

8. We desire to know what penalty is to be laid upon the Lord of the Manner which ought to keep a Court-Leet once a year, and doth not, and to whom the penalty belongeth.

9. How Lords of Mannors do hold their Lordships and Mannors, and whether

ther they pay any Rent therefore or no?

10. *If Lord of a Mannnor commit Felony, who is to have the forfeiture of his Royalty.*

The Resolution of the foregoing Questions.

To the first: A Joynture of a Copyhold doth not bar Dower; for that at the common Law it it did not; and by the Statute of Uses the Joynture must be of Lands at the common Law; and whereof Uses might be raised, which holds in neither in Copy-holds.

2. It is not Felony, but the Lord of the Mannor may have an Action of Trespass again the said Husband; or the Heir may have an Action upon the case against him.

3. The Heir may sue him at common Law for detaining of his Writings: and touching the distress for Quit-Rents, let the Tenant bring a Replevin, and the Lord upon his Avowry must shew his Title.

4. The

4. The Statute of Joyntures doth not extend to Copy-holds for the Reasons given to the first Question; and therefore that Statute is no bar.

5. Elm, Oak and Ash are accounted Timber in Law; and Beech in Countries barren of Wood: the Law restrains any Copy-holder to sell Wood or Trees but for necessary uses, unless the custom warrant it otherwise.

6. The Lease *Parole* for five years not warranted by the Custom is a forfeiture of the Widdows estate, if the Lord take advantage thereof; if the Lord so do, the Lessee hath no remedy.

7. Against the Debtor he can have no Action of Debt; for his Action was determined by the Execution: but within two or three years he may bring an Action of Debt against the Sheriff.

8. A *Quo Warranto* lieth for non-user or abuser of a Franchise. The penalty is the Seizer of the Leet.

9. All Lordships and Mannors were holden before these times *mediate* or *immediate* from the King by accustomed or reserved services.

10. If

10. If he hold of the King, the King; if of a meane Lord, that Lord.

Cases resolved touching Wills.

What persons are by the Law to make a Will or Testament, and who not.

A Person out-lawed for Felony cannot make a Will; but if a man be out-lawed only in Personal Actions, he may make a Testament of his Lands, but not of his Goods. The same Law is of a man attained of a *Præmunire*, but not of a man excommunicated.

An Infant making a Will of his Land within age, and dieth after he cometh at full age, not revoking this Will, it is not a good Will.

A woman seized of Land and marrieth, and afterwards maketh a Will of it; this is not good.

A Lunatick being of sound memory, maketh his Will and becometh Lunatick, and afterwards comes to his understanding and dies: this is not a good Will.

A man speechless, or one born deaf and dumb, may make a Will by signes.

A men being of a sound memory, makes his Will, and afterwards becomes mad, and so dies: this is not a good Will.

A man who hath a Wife not divorced taketh another Wife who is an Inheritrix; she cannot make a Will.

What is a good Will, and what not; and what shall be a Revocation, and what not.

A Will without naming any Executor is good for Lands, but not for Goods.

A Will wanting date is good, if made after the 20 day of *July* 1540.

A Will without sealing or subscribing, if it be made in writing in the life time of the Testator, although it be never proved before the Ordinary.

A Will Nuncupative is not good for Land.

Two men severally seized of Land, make

make a joynt Testament of their Lands; this is good.

A man is making his Will, and hath devised parcel of his Land; and before the finishing thereof, he dieth: the Will is good for so much as is devised.

If a man appoint by his Will, that his Land shall be sold to pay his debts, and sheweth not by whom; the Will is good, and shall be performed by the Executors or administrators.

If a man makes a Will of land that is not his own, and after purchase the same land and die: this is not a good Will.

Also if a man makes a Will of his land, and after alien this land, and afterwards repurchaseth it again, this not a good Will.

A Woman makes a Will of her Land, and after takes a husband, who hath issue; the husband and the Wife both die: this is not a good Will.

A man makes a Will, and afterwards makes a new Will; and after in his bed dying, saith that his first Will shall be his last Will, this is good.

A man makes his Will in writing, and after giveth divers Legacies to several per-

sons; then after by word revoketh all but one: this is a good Revocation of all but that one.

If any man gives land by Will to one person in Fee, and afterwards giveth the same land to another person by another Will but for term of life: this is a Revocation of the first Will.

What things are deviseable or may be devised.

If any man be seized of lands deviseable, and thereupon buildeth; the house or building may be devised. So likewise may a Rent-charge created *de novo*.

A man seized in right of his wife, and granteth parcel of his land to one, and after deviseth the residue to another: this is good.

If a Farmer of land not deviseable, erect and fix a Furnace in the midst of the house in the land, he may devise this Furnace.

A Tenant in Fee-simple or Fee-tail, may devise the Corn, although the land be not deviseable: but trees he cannot.

A man seized of a Mill, may devise the runner-stone, but not the under-stone.

If a man have an annuity to him and his heirs

heirs, he cannot devise this annuity: but if it be an annuity for term of years, he may.

If a husband die, having before devised Corn upon his wives land, it is good, whether it were sown before the Marriage or after.

What words shall make Fee-simple lands, and what not.

Land given to a man to hold to him and his heirs, with Warranty of the land to him and his heirs, this is a good Feesimple.

Land devised to a man by Will, by these words, *To do with it at his pleasure*; this is a good Fee simple.

Lands given to a man, to hold to him in Fee-simple, and livery made to him and his heirs according to the form and effect of the deed; it maketh Feesimple.

Land given to one for term of life, and livery and seisin made to him and his heirs, according to the form and effect of the Deed; this is not Fee-simple.

A man seized in Fee simple, grants *totum statum suum*, his whole estate; *Habend'* to the grantee and his heirs, and maketh livery according to the Deed: this is Fee-simple.

A man leavyeth a Fine *sur Connuzance de droit come ceo* &c. The Connsee, that is he to whom the Fine is granted, hath Fee-simple.

Two Coparceners in Fee simple make partition; and for equality of partition, a Rent is assigned out of one part to the other, without any other words: the Assigne hath the Fee-simple in the Rent.

Land is given by Deed, the *Habendum sibi & heredibus suis, vel de corpore suo*, to him and his heirs, or heirs of his body; this is not Fee-simple: But if the *Habendum* were *sibi & heredibus suis, vel suis assignatis*, to him and his heirs or assignes.

A man makes a Lease of two acres of Land for life, the remainder of one of them (without shewing which) to a single woman in Fee; she taketh a husband, and after the Lessee is impleaded in a *Precipe quod reddat* of one of the acres, and prayeth ayde of the husband and wife, as of them in remainder: they joyn in aid *gratis*, and cannot bar the demandant, whereby he recovereth. The husband dies, the Lessee dies; the Wife hath the fee-simple in the other acre.

Tenant

Tenant in tayl enfeoffeth his brother, Recovery is had against him by erroneous Judgment: the Tenant in tail hath issue, and dieth; the issue within age; the brother dieth without issue: the issue in tail being his heir within age, reserveth the Judgment by error, and enters; he hath fee simple.

A Lease is made to the husband and wife by Deed, *pro termino vitæ suæ. Habendum eis pro termino vitæ*, to have to them for term of life of the wife: she dieth, the husband continues in possession, he hath fee-simple.

A Lease is made to a woman for term of years, upon condition, that if she have issue within the term, that she shal have fee; the Lessor and Lessee inter-marry, and have issue within the term, and the husband dieth; the term expireth, and the wife continueth in, seized of the fee simple.

Husband and wife Joynt-tenants in tail, make a Lease for life; the husband dies, the fee-simple descends to his son out-living the wife.

Who

Who have a sole estate in fee-simple, that they may devise it, and who not.

A man seized of Land in Fee, hath issue a daughter beyond the Seas; and after, he hath another daughter within the Realm, and dies; the daughters enter together, the younger daughter hath a sole estate in fee-simple.

A man is dissolved by two, and he releases all his right to one of them in tail; he is so seized in Fee simple.

One Joynt-tenant releaseth to his companion upon condition the Releasee dieth, his heir enters, the condition is broken, and the Releasor enters, clayming the moyty; the heir shall not be said to be sole seized.

Two Coparceners in Fee are impleaded; the one of them disclaimeth; the other is not sole seized. The Law is otherwise between Joyntenants.

A man seized in fee, hath issue two daughters bastards, and one daughter legitimate: the Bastards enter; the daughter legitimate releaseth to one of them, she is not sole seized.

Land

Land is given to a man, to have to him together with *A.* the daughter of the *donor* in frank marriage; after they are divorced, *causa præcontractus*, at the ſuit of the husband; the *donor* dies, the daughter is his heir; ſhe is ſole ſeized.

A woman inheritrix hath iſſue, a daughter, her husband dies; ſhe takes a ſecond husband, and hath iſſue another daughter: the husband and wife exchange the Land of the wife for other Land in Fee; and after of the wife and husband die, the daughters enter into the Land taken in exchange: the younger ſhall be ſaid to be ſole ſeized.

A *feme* ſole makes a Feoffment upon condition to be performed on the part of the Feoffee at a certain day, before the day they intermary, the day incurreth, the money not paid: the husband is ſole ſeized.

A Feoffment is made to two, and to their proper uſe; and livery, & ſeiſin is made to one of them accordingly, he is not ſole ſeized: otherwiſe, if no uſe had been expreſſed.

A Feoffment is made by deed to two, with a Letter of Attorney to one of them, to deliver ſeizen, and he makes livery to the other accordingly: he is not ſole ſeized in Fee-ſimple.

Two joynt-Tenants, one within age, are diſſeiſed by the Father of the Infant; and the Father dies ſeized; the Infant entereth, and the other occupieth in Common with him, the Infant is ſole ſeized.

Two joynt-Tenants in Fee: the one bargains and ſells by Indenture all his part, and before the Inrolement, the other dies, and the Indenture is inrolled within the ſix months, the other moyety ſhall deſcend.

What perſons are Coparceners or Tenants in common in Fee-ſimple: and who may deviſe their parts, and who not.

A man hath two daughters, and makes a leaſe to them for term of their lives; the father dies; the daughters are ſeized in Fee in Coparcenary.

Land is given to a husband and wife and to a third perſon, and to the heirs of the husband; and the third perſon releaſeth to the husband and wife, and to the heirs of the wife: the husband and wife are not joynt-Tenants, nor Tenants in common of the *Fee*-ſimple: but the husband himſelf is ſole ſeized in Fee.

A man hath iſſue, two daughters; and the elder

elder of them holdeth certain land of the father by 4 *d.* rent, the father dieth, the younger sister shal be presently seized with out any partition of 4 *d.*

Two joyn-Tenants by deed, make such partition, that is, that the one of them shall have the one moyety to him and his heirs, and the other shall have the other moyety to him and his heirs, without any meets or bounds, they are not Tenants in common.

A man makes a Feofment of two acres of Land *habendum*; the one acre to one of them and his heirs, and the other acre to the other & his heirs: they are joynt-tenants.

Three Coparceners are agreed to make a partition, so that the one hath a several part alloted to her in severalty; and that the others shall hold in Coparcerany: and for equality of partition, a rent is granted and alotted out of the several part to the others in Fee: they are coparcerners of the Rent.

A man makes a lease for life, and hath issue two daughters, and dieth; the Lessee make waste: the one of the daughters hath issue, and dyeth: the issue and the other bring a Writ of waste, and recover, and enter; they are Coparceners as well of the Free-hold as of the Fee.

Land

Land is given to two to have to them, that is to say, to the one of them in tayl, and to the other in Fee: he who hath a Fee, deviseth the whole, and dieth: this not good for any part.

What devises of reversions or remainders of Rent be good, and what not.

A man lets a lease for term of life and after diseised his Lessee, and makes a Lease for term of life to another: for term of life of the first Lessee, the remainder over in Fee, the first Lessee enters, yet he in the remainder may devise his remainder.

A man makes a lease for yeares upon condition that the lessor disturb not the Lessee within the term of the Lease, that the Lessee shal have Fee, & maketh Livery accordingly: the Lessor disturbeth the Lessee for Rent, where none is in arear, and after he deviseth his reversion: this is not good.

A man makes a Lease of two acres of Land, reserving rent, and hath issue two daughters, and dieth, the daughters make partition of the reversion; so that the reversion with the appurtenances of one acre is allotted to one, and the other to the other: they

they severally devise the rent: this is not good.

Land is given to two *habend.* to the one for life, and after his decease to the other in Fee; he who hath the Fee deviseth his reversion: this is good.

The husband endows his wife at the Church-door, and after is attainted of Felony, and dieth; the wife enters: the Lord of whom the Land is holden, deviseth the reversion, this is not good.

A lease is made for life: the remainder in Fee to the Wife of the deviser, she survive:h, and deviseth this remainder: this is good.

An *Infant* makes a Lease for life, the Lessee grants his estate over with Warrants the Infant at his full age bringeth a *dum fuit infra ætatem*, against the Grantee, who avoucheth his Grantor, who entreth into the warranty, upon whose possession the demandant releaseth in fee al his right, and is barred in the action by this release, and after deviseth his reversion: this is a good device.

A man grants his reversion in Fee, and before attornment he grants the same reversion to the Grantee for term of life onely

and

and the Tenant attorneth generally, the Grantee deviseth this reversion: this is a good device.

A husband makes a Lease for life to the daughter and heir apparent of his wife, being covert rendring rent; the wife mother dieth, the husband deviseth the rent: this is void.

A man makes a lease for life, reserving rent to him and his heirs, the Leassor deviseth his rent; this is good: but if he reserve the Rent to him and to his Assigns, it is not good.

What gift, or estate, or conveyance shall be said to be made by covin or fraud, and what not.

A man holdeth Land in Soccage of a common Lord; and he conveys this by fraud to defraud the Lord of his relief or herriot, the Lord shall not take advantage of this covin.

The Tenant makes an estate in Fee upon condition, and takes back an estate to him for life, the remainder to his eldest son in tail, and for default of such issue, the remainder to the heirs of the Body of the father

ther begotten, the remainder over in Fee to the Lord of whom the Land is holden, yet this is covin at the pleasure of the Lord.

A man *bona fide* enfeoffeth two of his servants to their own use, for good service done and to be done; and they by covin convey divers faandulent estates to their masters, which remains over, *&c.* and the master knowing of their intent rejoyneth at it, yet this shall not be fraud.

The Tenant intending fraud, enfeoffeth divers persons, and putteth the Lord in trust as Attorney, to make Livery and Seizin, and so he doth, yet the Lord shall avoid this covin.

The Tenant maketh a Lease for years to the Lord, and after by a Fine conveyeth fraudulent Estates, *&c.* and after, the Lord within the term, maketh his Executor, and dieth, and the Execu or entreth into the term, and after the lessor dieth, his Heir within age, and the term continueth, the Heir of the Lord shall not avoid this covin.

What

What shall be said a purchase of Lands by the husband for the Joynture of the wife, and what not.

Land is given to three men, and a *feme* sole: one of them marries with the *feme*; she being excommunicated, one of the others releaseth to the husband and wife, and to the Heirs of the husband: the husband dies, the wife assents. This is a good Purchase, and yet the wife is not a Tenant for life.

I. S. being contracted, marrieth another wife, and after marrieth her with whom he was contracted: he and this wife exchange land, which he had in the right of his wife: the husband dieth; she agreeth to the exchange: this is not a joyntu e.

A windmil is leased to a woman for years, who taketh a husband, he granteth the term upon condition, and for the condition broken enters: the lessor releaseth them, *& heredibus suis omnibus masculis*: and if they die without such an Heir, that this shall remain to the Heirs of the husband: this is good, *&c.* 27. H. 8. cap. 10.

A

A Reversion upon an estate for years is devised to the husband and wife in frée marriage by the father of the husband, the remainder to *J. S.* in fee Tenant for years surrendeth to the husband, who dieth; the wife enters: this a good estate to the wife; *&c.*

An upper chamber is granted without deed to *A.* for life, the remainder for life; the remainder to *A* in Fee: *A.* grants his estate to him in remainder and his wife, and to their Heirs; and if they die without Heirs males of their bodies begotten, that then this shall revert: the husband dies, the wife enters. This is an estate to the wife, *&c.*

Land is devised to *J. S.* for life, the remainder to a husband in frank-marriage for, *&c. I. S.* and the deviser die; the husband enters and dies, the wife enters: this is not an estate made, *&c.*

Five acres of Land, adjoyning to the Sea are devised to husband and wife, *& heredibus suis masculis*, for, *&c.* five other acres adjoyning thereunto, the Sea forsaketh, into which the husband and wife enter: this is not any estate made in the five acres newly gained.

J. S.

J. S. by indenture bargains and sells a Dove-house to husband and wife, and to their heirs so long as they have issue of their bodies, whereas he hath no Dove-house: *J. S.* builded one; the husband enters and Dies, the wife enters: this is no tail in Joynture, *&c.*

The father giveth Land to the son and his wife, *& liberis suis*, with warranty to the son and his Wife, and to the heirs of their bodies for ten years; they are impleaded within the ten years, and lose and have in value: the years expire. the husband dies; the wife enters; this is not an estate in tail for joynture, but for life.

Land is given to *A.* and *B.* and to the heirs of *B. B.* leaseth this to a *feme* sole for life, the lessor grants to the said *feme*, and *J. D.* common for ten year out of the said Land, during their lives for the Joynture of lessee, and after marrieth her: *A.* and *D.* die: this is an estate conveyed for life as an hereditament.

To grant an annuity of 10 *l.* joyntly and severally, to *J. S.* in Fee, who granteth it to husband and wife, to the husband for the life of *J. D.* to the wife until one of the

the sons of *J. S.* accomplish the age of twenty one yeers, the husband dieth, the wife accepteth this annuity: this is an estate made for the wife for a joynture, *&c.*

A Leasse for life is made to the husband, the remainder to his wife and *J. D.* successive for their lives; the husband felleth trees and dies, the wife enters, the Vendee cuts, the lessor recovers in a Writ of wast, and hath execution: this is an eviction by lawful action: and yet the wife shall not have a Writ of Dower.

A Lordship by fealty and rent, is given to Baron and *feme* in tail before marrige, for, *&c.* the remainder in fee, a Tenancy escheateth the husband, leaseth the Seignory to *A.* who recovereth in a *Cessavit*, and dies, his heir enters, the husband dies: this is an eviction by lawful action, and the wife shall recover but an estate for life to the value of the Tenancy.

Tenant in tail of a rent, purchaseth the Land, out of which, *&c.* in tail, and giveth into Baron and *feme* for their lives, for, *&c.* fifty yeers expire, Tenant in tail, and the husband die, the wife enters, the issue bringeth a Formedon of the rent & recovereth, and is put in execution: this is an eviction,

and the wife shall have it to the value of the rent.

Land is granted to a *feme* covert for life, for, *&c.* he in reversion grants it by Fyne: the Conusee brings a *fairę facias*, the husband claims Fee, and it is found against him, whereby judgement is given, the husband dies, the wife enters, the recoverer enters: this is not an eviction.

Tenant after possibility of issue extinct, the remainder for life is diseised, and released to the diseisor, who dies: his heir gives the Land to husband and wife in tail, Tenant for life bringeth *a consimili casu*, and recovers; the wife enters; this is not an eviction.

An Infant gives a Park to a *feme* covert for life without impeachment of waste, the remainders of them to two men, and the heirs of their bodies: the game is destroyed, the husband dies, the wife enters, they bring a Writ of waste, the wife pleadeth *Nul* waste, *&c.* whereby they recover: this is a lawful eviction, but she shall not have a Writ of error.

Land of the value of 20 *l. per annum*, is granted to a *feme* for life, rendring 10 *l. per annum*; she marrieth: he who hath right

right recovereth the Land by covin of the husband, and hath Execution: the husband being Tenant in Tail, dies, having Land to the value of 10 l. *per annum*, the wife shall have it discharged of the rent, lesse for life reversing rent, the lessor diseiseth him and makes a feoffment, the feoffee dies. his heir giveth the land to the lessor and his wife in tail for her joynture. Tenant for life brings a writ of entry in the post, and recovereth, and hath execution, the husband dies, the wife shal have dower, and shall recover for life the rent not recovered in value.

Grandfather, father and son, the father diseiseth the grandfather, and taketh a wife; the father surrendreth certain Copy-hold land to the use of himself and his wife, and the heirs of the husband: the father dies, the son enters, the grandfather dies, the wife shall have this joynture or dower, but not of this land.

Land is given to husband and wife in tail, with warranty, h y lose and recover in value against him who hath nothing, the husband and J. S. being joynt-Tenants, agree by deed, that after five years ended, they shall hold in severalty; the husband

dies within the five years, the wife hath dower assigned, she shall have both.

Lord and Tenant: the Tenant is attainted of Felony, and commiteth Treason, for which he is attainted, the Lord enters, and gives the land to the Tenant and his wife for years, upon condition, that if the Lord do not pay 20 *l.* to the husband and wife at a certain day, that they shall have it in tail, for the wives joynture: and the husband dies before the day, the money is not paid: this is a joynture, and the wife shall not have dower.

A. enfeoffeth *J. R.* and *B.* makes livery to *J. S.* who taketh a wife; land is given to them in special tail for the joynture of the wife; they levy a fine, *J. S.* dies, a *præcipe* is brought against *B.* he disclaims; the heir of *J. S.* enters, the wife shall not have joynture nor dower of the land, but of other land she shall have dower.

A rent-charge issuing out of Lands in several Counties, and in the hands of several persons, is granted to husband for life, the remainder to his wife for her life for her joynture; the husband dies, the Tenant attorns to the wife, she shall not have this joynture nor dower.

Land

Land is given to *J. S.* for life, the lessor disseiseth him, and giveth the land before Coverture to the wife for life for a joynture, a stranger continueth her estate with warranty, *J. S.* bringeth a *Precipe* and recovereth, the wife hath in value, the husband and he in reversion make a feoffment before the Statute, the husband dies; this is not an eviction by discontinuance of the joynture, and yet she shall recover dower.

What is a joynture assured before marriage, and what a joynture after marriage.

A Lordship by fealty and Rent before marriage is granted to Baron and *feme* for a joynture, they marry; a Tenancy escheateth, the husband enters and dies; this is a joynture in the Tenancy assured before marriage.

J. S. contracts with *A.* and before marriage, concludes with *B.* that he will recover the Mannor of *D.* and that this shall be to them in tail for a Joynture. *B.* brings a writ of entry, which is returned, they marry. *B.* recovers and enters: this is a joynture after marriage.

I. S. leaseth to two for yeers rendring rent, and grants the reversion to husband and wife for their lives for a joynture, one attorneth before marriage, and the other after marriage: this is a good joynture before marriage.

I. S. enfeoffeth *I. D.* to the use of himself until he marry, and after that he marrieth, then to the use of her that shall be his wife for her for a joynture: this is a joynture after marriage.

I. S. grants land to a *feme* for ten years, and if he after marry her, then she shall have it for her life for a joynture, they marry; this is a joynture before marriage.

I. S. in consideration of a marriage to be had betwixt him and *A. S.* covenanteth that he shall be seised to the use of him and the said *A.* for their lives; they intermarry, the deed is inrolled, this is a joynture before marriage.

After affiance between *I. S.* and *A. S.* they conclude that a fyne shall be leavied of the Mannor of *D.* for her joynture, the concord is acknowledged before the chief Justices; they marry, and after a writ of Covenant is brought, and a fyne leavied: this is a joynture after marriage.

I.

I. S. and *A.* marry before yeers of consent, land is given to them for their lives, at the yeers of consent they agree: this is a joynture after marriage.

I. S. makes a deed of feoffment to *A.* with a letter of Attorney, which feofment *A.* doth expres to be to the use of himself, and her who shal be his wife for their lives, for a joynture; they marry, the Attorney maketh livery: this is a joynture after marriage.

I S. diseiseth one to the use of *A.* and *B.* whom he intends shall marry for a joynture. *A.* and *B.* enter, and after the diseise releaseth to the wife for her joynture: this is a joynture after marriage.

Land is given to *A*, *B.* and her who shall be his wife, for a joynture; they marry, the wife enters; this is a joynture in the moyety, which she shall have by survivor, and before marriage.

A. deviseth, that his Executor shall give the Mannor of *D.* to *S.* and *A. D* who shall be his wife, for their lives; they intermarry, the Executor grants the Mannor accordingly; This is a joynture before marriage.

Some Cases resolved touching forceable Entries, by the Statute of 8 H. 6. c. 9.

The turbulency of some troublesome Spirits, oftentimes cause great mischief in this case, who have the Law in their own hands, and altogether be their own Carvers in laying hold on violently whatsoever they imagine their own, not regarding the mark or touchstone whereby it should be proved: from whence arise tumults, affrays, riots, assaults, maihems, man slaughters and murder it self: for prevention of which evil, the Statute of 8 H. 6. hath provided remedies, and given power to the Justices of Peace to suppress such mi demeanors; and because the Country people are much infested with this maligne disease, for whose instruction this Treatise is chiefly intended, I shall here give them some Directions in this Case.

What

What is a forceable entry, and what is a forceable detaining, and what not.

If two persons or more being armed, or having weapons in their hands, enter the house of another to have possession thereof, and thereupon the party in the house parts a far off without any further violence offered him, this is a forceable entry.

If two men or more armed, &c. enter the house of another, the door being open, not declaring their intent, and remain in quiet notwithstanding, the tenant without using violence: this is not a forceable entry.

But if two or more enter the house of another in peaceable manner, and after with force and violence against the will of the party in possession put him out of possession: this is a forceable entry.

If a single person break the house or window of another, and enter in, against his will, and thereupon he threatens the party in possession, insomuch that for fear he forsakes the house: this is a forceable entry.

If a forceable entry be made into the

house

house of another to fight with the party there dwelling; and he for fear departs out of the house, and his enemies also; this is not a forceable entry:

If a man make a lease for life, and after grant the reversion to the same lessee upon condition, which is broken on the part of the lessee, and thereupon the lessor enters with force to gain the possession of the land: this is a forceable entry.

But if the lessor enter with force to see if waste be made by the lessee; this is not a forceable entry.

A Lord distrain for rent with force, though none be arear: this is not a forceable entry.

If any be fighting in a house, & the door shut, and others enter, and break it to see the peace kept: this not a forceable entry.

If two persons are fighting in the street, and one wound the other, so that he is in danger of death, and flee into a house, and shut the doors after him, and others there present pursue him, and break the house to take him: this is not a forceable entry.

But if no such danger of his life be, then they cannot break the house to take him, although it be done upon fresh suite; but if the door be open, they may enter and take him.

If

If the Justices of peace upon complaint made come to the place where the force was, and find the door shut, and within the house there is but one sole person, who will not open the door, & suffer the Justices to come in: this is a detaining with force.

If the Justices come to the place where the force was, and find some persons in arms, or their weapons lying by them in the house; this is a detainder with force.

If a man hath two houses neer adjoyning, the one by a good title, the other by a defeazible title; he keeps a force in the first house to beat them who would enter into the house by a defeazible title; this is a detaining of force within.

If a man claim common in any Land, and the Land is detained with force, when he would use his common, or distrain for his Rent: this is a detaining with force.

If a man hear that certain fellows will come to his house to kill, beat or rob him; whereupon he assembles a force to assist him in his defence, this is no detaining with force.

If a man hath rent issuing out of the land of another, which land is detained with force, when he would distrain for his rent

arear

arear, he who is so disturbed of this rent, is no party grieved to complain by the Statute before recited.

If after the death of the father, a stranger enters by abatement into the land, and holdeth with force, the son is not a party grieved.

If a man be seized of land, upon which a forceable entry is made, and die before any complaint is made thereof, his heir is not a party grieved to make complaint.

If a man make a lease for five yeers upon condition that if within the first two yeers, the lessee pay to him 10 *l.* that then he shall have fee, and livery is made accordingly there, if any such forceable entry be committed within five yeers, although that the condition be not performed, yet the lessee is a party grieved by this Statute.

A man possessed of a term makes the heirs of *J. S.* his Executors, and dies; the said *J. S.* being also then dead, leaving issue a daughter, his wife *pregnant* with another daughter; the first enters into the land after which the other is born, and then such a force is committed; both the daughters are parties grieved.

Who

who are bound to go with the Justices at their command to remove a force; what is their penalty in case they refuse to go; and of what force is the Justices record.

A man attainted of Felony upon request made is bound to go with the Justices to remove a force.

Dukes, Earls, Lords, Barons, and every Apprentice and Servant is bound by the Statute to go with the Justices to remove a force.

An Alien born, and not made a Denizen, or a man who is not of sound memory, an Infant within the age of fourteen years, or any woman sole or covert, are not compellable to go with the Justices to remove a force.

A man going under bayl for debt or trespass, is not bound to go.

If hue and cry be made at one end of the Town, and the Justices require them at the other end of the Town, they are bound to go with the Justice to remove a force.

But if they have taken a Fellon, or are in pursuit of a Fellon at the time of request

queſt, they are not bound to go:

If the Sheriff, Conſtable or other Officer without any Warrant, Proceſs or Precept, require any perſon to go with the Juſtices to remove a force: they are not bound to go by this Statute; neither can an Officer arreſt or impriſon them by this Statute for their refuſal.

But the Juſtices themſelves may require them being in their preſence by word only, and upon their refuſal, impriſon and fyne them.

If a forceable entry, and detainer with force be made upon the poſſeſſion of a Juſtice of peace, he himſelf upon the view of it cannot remove the force.

But if upon a force committed, they alſo aſſault the Juſtice himſelf, then he may commit them to priſon.

If one part of a houſe be in one County, and another part in another County; and when the Juſtices come to remove the force before they can arreſt them, they go into another part of the houſe which is in another County; there they cannot remove the force by this Statute.

If a man enter the houſe of another by force, and expels the owner thereof, to one

part

part or end of the said house, and detain the house with force; the Justices may remove this force, and commit the offendor to prison.

If the Justices be present upon other business, where a forceable entry is made, when they are informed thereof, before any detainder, they cannot arrest them, and commit them to prison by this Statute.

If the Justices come to remove a force; and upon an arrest made, the offendors escape into another County, the Justices cannot arreast them nor commit them to prison by this Statute, although it be upon fresh suite.

If the Justices come to remove a force, and the offendors, before any arrest, make an escape for that time, but in the morning they are brought back again before the same Justices to the same place, by vertue of their Precept, yet they cannot commit them by vertue of this Statute.

If the Justice come to remove a force, and before that they can arrest the offenders they escape from thence; upon that, the Justices may well record this detainer with force by this Statute.

If the Sheriff is made Justice of peace, and

and after in the same yeer that he is Sheriff he cometh to the place where the force was, he cannot make a Record of this by the Statute.

If the Justices upon their coming to remove the force, make a Record thereof, and commit the offenders to prison; and although it appeareth by the same Record, That it was not a force upon the matter, yet no remedy for the party to convicted.

If the Justices make a Record, That they did see, where indeed there is no such matter, yet the parties cannot traverse it.

If the Justices come to remove a force, and a Rescue is made to the Officers and others there present to remove them, they may Record that as well as the force.

But if the Justices upon view of a force, record a Murder, Maim, or Man slaughter, this is no Record by this Statute.

If the Justices upon a force committed and complaint thereof made, make enquiry thereof, without going to the place it self where the force was: this is also a good enquiry by this Statute.

But if the Justices upon view of the force, make

make a Record thereof, and their Record containeth that the force was made with twenty persons, and the inquiry found it but ten persons: this enquiry is not good by this Statute.

If several enquiries be made by several Justices upon a forceable entry, every one of them is a good enquiry.

If the Justices in their inquiry of force, present an Inquest by persons not sworn to do it; the inquiry maketh mention that they were sworn, yet this is a good enquiry.

But if the enquiry be made under the number of twelve; this is not a good enquiry.

If any of the jurors, before whom any such Inquest is taken, be attainted of a false Oath, or in *decies tantum*, or are *Ambo-dexters*; this is not a good enquiry.

But if there be twelve persons in the jury over and above the persons attainted, the inquest is good.

If it be found by inquest that *A. B.* was seized, until *J. D.* diseised him with force by this inquiry, *A. B.* shall have restitution.

If it be found that the father made a lease for years, and died, the years expired; and before any entry made by the son, a force is committed; the son shall not have restitution by this Statute.

A man seized of Land hath issue a daughter, and dieth, his wife great with child of a son, the daughter is ousted by force, and after the Son is born, and all this matter is found by inquest, yet the Son shall not have restitution, but the daughter shall have it.

If it be found by several Inquests, that a man is ousted with force by several persons at sundry times of one and the same thing; each Inquest is good, and he may have restitution upon which of them he will; but when he hath restitution upon the one, then he shall not have restitution upon the other.

If it be found by several inquiries (that is to say) by one inquest, That *J. S.* is ousted by force; and by another Inquest, That *J. D.* is ousted with force, and all of one and the same Land, there each of them may have restitution by these enquiries.

If it be found that two joynt-Tenants were ousted by force, the one may have re-

sti-

ſtitution upon this enquiry without his companion.

If it be found that *A. B.* was ſeiſed for the Term of *D.* and he is ouſted with force by *E.* and that *D.* is now dead, yet *A. B.* ſhall have reſtitution by this enquiry.

If it be found that the Father was ſeized until ouſted with force, and died before any reſtitution or entry, the ſon ſhall not have any reſtitution.

Likewiſe if a man be poſſeſſed of a leaſe for years, and is ouſted thereof with force, and dieth before reſtitution, his Executors ſhall not have reſtitution by this enquiry.

A leſſee for life, the remainder over in fee, the leſſee is ouſted with force, and all this matter found by inquiſition of the force but he in the remainder ſhall not have reſtitution by this enquiry.

The husband and wife before iſſue had are ouſted with force, and then have iſſue, the wife dieth, the husband by inquiry ſhall have reſtitution.

If a Leſſe for life be ouſted with force, and the leſſor entereth for condition broken, and this is found by Inqueſt, yet the leſſee ſhal have reſtitution by this enquiry.

The Justices of Peace before inquiry be taken, may put the party in possession again without any Writ, but noe other Justices can do it without Writ.

The Justices of the same County, the record being before them, may award exemption by Writ, although they be not the same Justices before whom the inquest was taken; but not without the same Record.

If the Justices who took the inquest be dead before restitution be made, yet the Justices having the record may award execution of the same: the Judges of the Upper-Bench having the Record removed before them, may award Execution by this Statute by Writ; but not otherwise.

If a Tenant of Land payes any rent to a stranger by compulsion of distress taken with force; this is a disseisin with force.

But if a man be disseised of any rent by the Tenant of the Land, or by *Rescous* with force, this is not a disseisin with force.

If

If the Lord improves the waste with force, not leaving sufficient Common for the Commoners; this is a disseisin with force within the compass of the Statute.

If a lessee for years with the remainder over for life be ousted with force; this is not a disseisin with force by the Statute.

If the disseisor, after he hath continued in quiet possession for three years, detaineth with force; this is not any detaining with force by the Statute.

If two joynt-Tenants are disseised with force, they both together are the parties grieved by this Statute, and not apart, but if one of them releaseth to the other, or dieth, then the other by himself is a party grieved.

If the husband and wife seised of Lands in right of the wife, are disseised with force and the husband dieth, the wife shall be a party grieved by this Statute.

If a man be seised in right of his wife, and disseissed with force, and after they have issue, the wife dieth, the husband is a party grieved by this Statute.

If a man makes a lease for life to his eldest son, and is disseissed with force, and

dieth, the Son is the party grieved.

Land descends to two daughters, one enters, and a stranger ousted her by force, she may have an assize by this Statute: the party grieved may have an assize of *novel disseisin*, or an action of trespass upon the Statute, reciting the Statute, and shall recover treble damages.

Also in a Writ of Attainder brought against the Jurors, if they finde for the Defendant by false Oath, the party shall recover treble damages.

And these offences, I hope all Friends to peace and truth will avoid, and hereby finde directions to punish the *nocent*.

An

An Abstract of several penal Statutes made and enacted for the good of the Subjects, but are every day shamefully broken: therefore I have, according to promise inserted the several penalties by them enjoyned according to the nature of the offence, to terrifie Offendors for fear of the punishment, (*though they have so many partakers, that it will not restrain them*) and to excite others effectually to prosecute them for the love of *Virtue*.

WE will not here actum agere, *not use so much* Tautology, *as to insert what we have already spoken of*; *but onely put you in mind, That we have before in the Charge of the* Court-Leet, *sufficiently dissected the Alehouses, perhaps more then my Hostes will thank me*

for, and given a hint at the Gaming-Houses too, because the Alehouses and they are inseparable Inmates; yet nevertheless, they are not so fully laid down as I finde the Statute mentions: wherefore therewith I'll first begin.

Of Gaming-houses, and Players at Games.

No person whatsoever shall keep, hold, suffer or maintain in his House, Yard, Orchard or Backside, any place of unlawful Games, nor shall not permit nor suffer any persons to play at his House, Yard Backside or Orchard, at Tables, Cards, Dice Coits, Loggats, Clash, Bowls, Slidethrift or Shovegroat, (called now Shuffleboard and Boards end) or at any other unlawful Game, invented or to be invented, on pain to forfeit for every day he shall use or suffer the same, 40 *s.* and all such persons as shall use or haunt any such place of unlawful Games, or play thereat, forfeits 6 *s.* 8 *d.* for every such Offence.

No Artificer or his Journey-man, no Husband-man, Apprentice, Labourer, Ser-

Servant at Husbandry; Marriner, Fisher-man, Water-man or Serving-man, shall play at any such unlawful Game or Games out of *Christ-mas*; nor then, out of their Master's House, or presence; on pain of 20 *s.* for every default 20 *s.* All which forfeitures are to be divided between the King and any person that will sue for the same in any Court of Record; laying his Action in the same County where the Offence is committed, and prosecuting the same within a year, 33 *H.* 8, 9.

If Informers would look diligently after these offences, they would do good service to the Commonwealth, and save many Families, Wives and Children from Destruction, and Gamesters from the Gallows, where they usually throw their last Cast.

All Licenses to keep Houses or places of unlawful Games, shall be void. *Stat.* 2, 3. *p. m.* 9.

Per-

Perjury.

Whosoever suborns a Witness to give false Testimony in any Court of Record, forfeits 40 *l.* and upon conviction, if he hath not wherewith to satisfie the penalty, he shall suffer six months imprisonment, stand in the Pillory an hour, and be disabled for a Witness for ever after, unlesse the judgment given against him be reversed by attaint or error.

And he that doth wilfully *forswear* himself, that is, commit *wilfull perjury*, shall forfeit 20 *l.* six months imprisonment, and be disabled for a Witness, unless the judgement be reversed; and if he cannot pay the Fine, he is to stand in the Pillory, and have both his ears nailed, *Stat.* 5. *El.* 9.

By *forswearing*, I mean giving false evidence upon Oath before a Judge of Record; and this is *Perjury*: for if a man bring an Action on the Case for scandalous words against another, for saying of the Plaintiff he forswore himself; it wil not bear an Action, unless he say he forswore himself

self in a Court, which is a Court of Record being called there for a Witness.

And here by the way *I* must needs mention a Case which is odious.

T. S. of *W.* subborns *H. S.* his Son to give false evidence in the Court of Record holden for the Honor and Castle of *Windsor*, in a Cause there depending between *F. W. &c.* he had done the same before at *Abingdon*, and hath since therewith *W. F.* against the same *F. W.* upon an Indictment: *H. S.* commits wilful Perjury at *Windsor*, is found thereof guilty by Indictment at *W.* (where there was no Sessions kept a long time before) nor (because of their kind usage to the Country since) at the Sessions: the business was so handled by *Tom Sneaks*, and his Friends, that it was alledged that *Windsor* Court was not a Court of Record, and unless the Prosecutor presently prove it, (which they knew upon an instant he could not) the Defendant should be acquitted; and so he was thereupon. *Rare Justice!* But in the Court of *W.* it is no wonder.

I could name two or three more admirable Presidents between these parties: and some

some acted in the Town-Court of *Okingham*, *inter Sims* and *Magick*; but I'll reserve them till another time for another intended Subject.

The Forfeitures in Case of *Perjury* are to be recovered in any Court of Record by Action of Debt or Information, one half to the King, the other to the Prosecutor; and may be laid in any County, though the Offence was not committed there.

This Act ought to be proclaimed at every Assize; and great pitty it is in my opinion, that there is no greater punishment ordained for *Perjury*.

It is in all respects equivalent to murder; and why should not the committers thereof, receive the same punishment as murderers convicted do? or at least should do.

He that will forswear himself, as too many now a days make no bones of it, oftentimes doth, and upon any spleen, malice, or revenge, will take away the estate and life of any one.

Did not *T. S.* at *Oke-ingham* swear against *F. W.* at *Abingdon*, that he had stollen six cocks of Hay from him worth six shillings, and brough his Son and another

ther to do the same? when there was not a Hay-cock in the Ground: but the said *F. W.* was deputed lawfully to gather Tythes which the other very well knew, and did take but two or three little Grass cocks valued at three pence, which was his right: yet the other endeavoured to hang him for it, if his *Perjury* had not appeared too manifestly, as well as it hath done since, as I shall shortly in another intended Subject fully demonstrate and anatomize the practice in the Court of *Okeingham* besides. But I'll forbear them now, because the scope of this is something else, to which I'll proceed.

Forestallers, Regrators and Ingrossers.

If any Person shall buy or contract for any Merchandize, Victuals, or any other thing whatsoever, in the way, by Land or Water, before it be brought unto any City, Fair or Market where it ought to be sold, or shall cause the same to be so brought, or shall dissuade the people from bringing any such commodity to any such place; or, being brought, shall perswade them to inhance

hance the price thereof, shall be adjudged a forestaller, *Stat.* 5. *Ed.* 6. 14.

A Regrador is he that buys any Grain, Wine, Fish, Butter, Cheese, Candles, Tallow, Sheep, Lambs, Calves, Swine, Pigs, Geese, Capons, Hens, Chickens, Pidgeons, Conies or other dead Victual whatsoever, brought to a Fair or Market to be sold there, and to sel the same again in the same Fair or Market, or in some other Fair or Market within four miles.

An Ingrosser is he that gets into his hands by buying, contract or promise, (other then by device or Grant) any Corn growing in the Fields, or other Grain, Butter, Cheese, Fish, or other dead Victuals whatsoever with intent to sell it again. The Offendor in any of these Cases, shall forfeit for the first offence, the value of the goods so bought, and two months imprisonment without Bayl: for the second offence, the double value, and six months imprisonment without Bayl: and for the third shall forfeit all his goods, be set on the Pillory, and be imprisoned at the Kings pleasure.

He that buyeth Grain in any Market for change of Seed, shall bring as much hither the same day and sell it, according to the present

present price of Grain; on pain to forfeit double the value of the Grain so bought.

He that buyes any Cattel, and sells the same alive within five weeks, shall forfeit the double value therof, during which time he ought to keep them upon Pasture, either had by grant or prescripition. These Offences shal be divided between the King and the prosecutor.

Wine without License.

No person whatsoever not lawfully authorized by License, shall sell or utter any Wine by retail to be spent in his or their mansion-house, or in any other place, in their tenure by any colour, craft, or engine, on pain of 10 *l.* to be divided between the King and the *Prosecutor*: which suit shall be comenced within a year after the offence committed, *Stat 7. E. 6. 5.*

Understand, no colour, craft nor engine shall evade the penalty of this Statute: it is not the pretence of the keeping a free Vintner, as they call it, nor taking their Wine of a Vintner, or other such pretences may serve their turn.

Of importing Silk or Ribbands, &c.

None shall bring or cause to be brought into *England*, any Silk wrought (by it self or other stuff) out of *England* in Riband, Laces, Girdles, Corses, Cawls, Tissues, or points, on pain to forfeit the Same or the value thereof: to be divided between the King and any one that shall seize or sue for the same, *Stat.* 19. *H.* 7. 21.

A general complaint is now made by most, nay all Tradesmen that work in Silk of the great damage to the English *Manufacture* in Silk, by reason of the Ribands and wrought Silk brough into this Nation by the French and Dutch and those Forrain Nations, to the great hindrance and decay of our English Trade; for prevention of which, I have the rather quoted this Statute to discover a remedy for my grieved Country-men in this behalf, by which they may wright themselves if they look after it.

Wood.

There are such wastes and devastations of Wood and Timber, and the growth thereof, in this Nation as predicates a sad event and inevitable calamity ensuing, if it be not timely prevented, though I am half afraid, it is too late already, but hope better and do hereby invite all lovers of their countries good, especially to put in practice all such Laws and Statutes as are ordained for the preservation of Wood and Timber, as here they follow.

Statute 35 H. 8. 17. There shall be left unfelled in every acre of Copice or Under wood, which shall be felled at twenty four yeers growth or under, twelve Standils of Oak: or if there be not so many Oaks, the number shall be made up of Elm, Ash, Asp, or Beech; which Standils shall not be felled, until they bear ten inches square within three foot of the ground, on pain that the owner of the Wood shall forfeit for every Standil not so left, 3 s. 4 d. and for every Standil left, and afterwards cut down before he come to that bigness as aforesaid 3 s. 4 d. the forfeitures to be divided be-

tween the King and the Prosecutor.

None shall convert into tillage or pasture any Underwood or Copice, containing two acres or above, and being two furlongs distant from the house of the Owner thereof, or from the house whereunto such wood doth belong on pain to forfeit 40 s. for every acre so converted: *it were well if this were carefully look'd after.*

But the owner of any such Copice or Under wood may fell Standils for his own use for building or repairing, &c. notwithstanding this Act.

The Lord of the Soyl shal not fell or cut down any Wood or Copice, wherein others have Common (except it be to his own use) before he and the Commoners shall agree in the setting out a fourth part thereof, to be imployed to the use of the Lord; and in case they cannot agree thereupon, two Justices of Peace appointed by the Sessions shall have power to call before them twelve of the Commoners and Inhabitants, and with the consent of the Lord and them, shall set out a fourth part thereof to be inclosed by the Lord within one month after; and then to be felled at his pleasure, being subject to the same Laws

and

and penalties upon breach thereof, as other Copices before mentioned are: and if any Beast be suffered to come into such fourth part within seven yeers after it is felled, the Owner of such Cattel shal forfeit for every such Beast 4 *d.* & if the Owner of any such Copice or Wood, cut down any Trees or Underwoods there, contrary to the form aforesaid, he shall forfeit for every tree so cut down 6 *s.* 8 *d.* All these forfeitures are to be equally divided between the King and any one that will sue for the same in any Court of Record, *&c.*

Upholsters.

None shall make to sell, or offer to be sold, any Feather-Bed, Bolster, or Pillow, except the same be stuffed with dry-pulled Feathers, or clean Down only, without mingling of scalded Feathers, femme-Down, Thistle-Down, Sand, Lyme, Gravel, or other unlawful corrupt stuff: on pain to forfeit the same so offered to be sold, or the value thereof.

Likewise, none shall make to sell or offer to be sold any Quilt, Mattress, or Cushions stuffed with any mingled stuff, other

them Feathers, Wool, or Flocks alone; on pain to forfeit the same so put to sale, or the value. All which forfeitures are equally to be divided between the King and any person that will sue for the same.

Brokers, Usurers and Extortioners.

Three Birds of a Feather, not a pin to chuse: these are destructive *Locusts*, that live by the sweat of other mens brows: the most wicked of all people; abhorrent, and against the Laws of God and Nature: for *usuræ legitimæ sunt illicitæ*: nay, *nulla usura legitima est*: those usuries which our Politick Laws allow, though they may be said to be lawful usuries, and the most legitimate *quoad nostram legem*, yet they are illegitimate, and all unlawful *secundum legem Dei*.

Those most wretched people the Jews, having received from God a most express Command, not to oppress their brethren with Usury, they practise no vice more, and have spread their grangrene throughout almost all Nations, whither Gods judgments have scattered them; but especially, to the great shame of Christians, have in this

this respect found most imitation in *England*. And notwithstanding the prudency and vigilant care of our Supreme Governors to cut off the *Hydrean* heads of these Serpents, they carry their poyson so subtilly as to destroy whole families under the pretended coverture of innocency in the eye of the Law: but yet certainly, their skins may be pulled off, and their wickedness appear, if duly looked after. I shall therefore first begin with the Brokers, who lend money upon pledge or pawn, as they call it: that is, seldom exceeding the quarter, or a little more, of the value of the thing so laid in pledge, shall be the sum of money so lent: and under this notion, the Brokers shops are the harbors and receptacles of thieves; for they receive like hell, all that comes, not caring whether the bringers be the right Owners or not, so there appear a visage of gain: and though the right Owner finde his own Goods in their possession, yet they under pretence of the alteration of property, will not deliver them. But let them know, that the sale of Goods wrongfully gotten, to any Broker in *London*, *Westminster*, *Southwark*, or within two miles of *London*, shall not alter the property thereof.

And

And if any Broker, having received any such Goods, shall not upon the request of the true Owner, truly discover them, how and when he came by them, and to whom they are conveyed, he shall forfeit the double value thereof to the Owner of the said Goods, *Stat.* 1 *Jac.* 21.

But this is not all; for by an Act of the late Sessions of Parliament holden at *Westminster*, in the County of *Midd. Anno* 1651. it is enacted and ordained, That no person or persons, shall directly or indirectly, or by any craft or colour whatsoever take above 6 *l.* for the loane or interest of 100 *l.* for a yeer, or over: and above that rate for a greater or a lesser sum, shall forfeit the treble value of the money or goods so lent, to be divided between the Protector & any party that will sue for the same in any Court of Record, by Indictment, Action of Debt, Bill Plant or Information. And if any Scrivener or Broker, shall take any more then 5 *s.* for the procuring of 100*l.* for a year, or according to that rate for a greater or lesser sum, shall forfeit 20 *l.* and the Pillory.

Nevertheles so cunningly do these brokers and Usurers carry their designs, that *viis & modis*

mode they take at first peny after the rate of 30 *l. per annum, per cent,* and as they handle the busines, they make it amount to above 60 *l. per annum, per cent.* besides the trade of those that let money at 2 *s.* in the pound, deducted for twenty weeks, and have their money also paid weekly.

Well therefore were it to be wished, and is much to be desired, that these offences were duely prosecuted, and this enormous vice corrected, so much conducing to the good of the Common-wealth, and well-being of all people in general who must earn their bread before they eat it.

Several other kinds of Extortion there are, especially in Bayliffs, under-Sheriffs, Goalers, Sergeants, and such-like, which I shall omit here, and leave them till another opportunity, because their corruption will fill up whole volumes: unless I be prevented by their being reduced by the diligent hand of Justice, as I hope shortly they will

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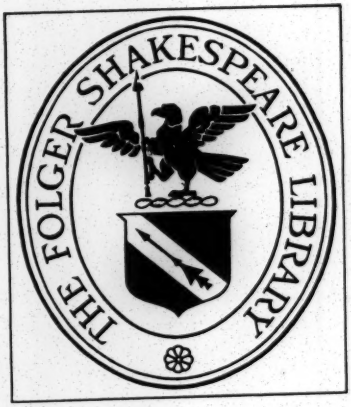
FINIS.

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